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HISTORY OF THE COMPLIANCE DIVISION

By

W. M. Galvin
J. J. Reinstein
D. Y. Campbell

WORK MATERIALS NO. 85

MARCH, 1936

OFFICE OF NATIONAL RECOVERY ADMINISTRATION

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U S Dept of Commerce
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F O R E W O R D

This "History of the Compliance Division" was prepared by Mesrs. W. M. Galvin, J. J. Reinstein, and D. Y. Campbell of that Division. It describes the development and operation of the Compliance Division of NRA from its inception to the time of the Schechter decision on May 27, 1935 when it ceased compliance activities and took the more appropriate name of Field Division while its personnel carried out assignments given by the Division of Review, the Robert Committee, and the Coordinator for Industrial Cooperation.

The outline for the History of the Compliance Division was developed in cooperation with the Division of Review by Mr. J. J. Reinstein, formerly Chief, Coordinating Branch. The parts dealing with field activities were developed by or under the direction of Mr. D. Y. Campbell, formerly of the Missouri State office. The chapter on the National Compliance Board and its successors and the Compliance Division Headquarters was prepared by Mr. William M. Galvin, formerly Chief, Analysis Branch. Statistical material was prepared under the supervision of Miss Marjorie Linfield.

The temptation to make special studies of particular problems has been resisted, partly to avoid duplicating studies made elsewhere in the Division of Review, and partly because of limitations of personnel.

The ommissions in the present account are both numerous and significant. Perhaps the main ommission is the failure to discuss the compliance procedure of Code Authorities and their relation to the Compliance Division. Considerable material on this subject is in the files of the Field Division. The effect that participation by the Compliance Division in code making might have had on the enforceability of code provisions is another wide field that is not covered, as is also the problem of the difficulties experienced by the Compliance Division in obtaining interpretations and decisions involving overlapping definitions of industries. The various liaison activities with other governmental agencies are also omitted. The problems arising from removal of insignia have been touched only briefly. There are wide implications in this subject which ought to be developed if insignia are to be considered in connection with any future industrial statute of broad import.

The findings in the report are individual findings, not official statements.

At the back of this report will be found a brief statement of the studies undertaken by the Division of Review.

L. C. Marshall
Director, Division of Review

March 24, 1936

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PART I

INTRODUCTION

Chapter I - The Nature of the Compliance Problem

Section 1 - Background of the passage of The National Industrial Recovery Act. It is familiar history that in the three and one-third years intervening between the stock market crash of October, 1929 and March 4, 1933, the country had entered into a vast economic and financial crisis. While not without precedent, the situation was dire, and far-reaching in its effects.

Almost immediately following his inauguration on March 4, 1933, the President acted to quiet the hysteria of the country. For the first time in history the President made use of the radio to talk informally with the people. The importance of this state of circumstances and of this course of action to our subject, lies not so much in its political aspects as in the fact that through this medium there was welded together quickly and effectively a tremendous and forceful public opinion. It was in this almost unbelievable unification of public support that the National Industrial Recovery Act, and the remainder of the Recovery program, had its foundation.

It was in this atmosphere of patriotic fervor, knowing little of party lines and the struggle of capital and labor, and born chiefly of fear of economic destruction, that the National Industrial Recovery Act became a law and the President's Reemployment Agreement and the codification of industry were begun.

This temper of the public, labor and industry, and the general circumstances surrounding the passage of the law cannot be overemphasized in importance. It was through these means that it was possible to educate the entire country to a program of national industrial regulation and cooperation. On the other hand, as business began to improve and this temper cooled, public support waned and public opinion suffered a reaction, so that during the last few months of NRA many individuals regarded the program as oppressive and a deterrent to the country's return to prosperity.

This unstable basis of public opinion complicated greatly the inherently intricate and complex problem of adjusting business to the new regulation by codes.

Section 2 - The scope of Compliance work. The work of the Compliance Division in connection with the enforcement of codes of fair competition approved under the National Industrial Recovery Act was designed to meet an administrative problem distinctive in the history of the Federal Government. Under the authority of Section 3(a) of the Act, codes were approved establishing minimum wages, maximum hours, conditions of employment and standards of fair competitive practice in 556 industries, embracing 2,500,000 employers and giving employment to 18,600,000

persons. (*)

The magnitude of the scope of codes and the complexity of the regulations which they contained made it necessary to develop a new administrative technique for securing compliance with code requirements, in which educational and persuasive methods would be predominant. There was sound precedent for the use of this approach to the administrative problem presented by the codes. The introduction of law requiring significant adjustments in business methods requires the establishment of a general understanding of the substance and purpose of the law and the manner of its administration. In its report to Congress in 1889, the Interstate Commerce Commission stated:

"Undoubtedly the first duty of an administrative officer is to give effect to the law under which he acts. Much depends, however, on the manner in which this is done, and misdirected energy may render a law nugatory. A fanatical or sensational course rarely leads to good results, but on the contrary, usually provokes antagonism, and often tends to defiance of the law itself.

"When a law relates to great business interests intended to be governed by its provisions throughout the whole extent of a vast country with many diverse characteristics, great care is required to so administer the law that it shall be respected and obeyed. In a matter of such magnitude and importance ... many other things are required besides prosecutions for violations. Careful interpretations of the provisions of the law, correct knowledge of the subjects to which it applies, and of any distinctions in conditions that may modify its application, are necessary, in order that it may be intelligently applied. A reasonable time was also required to enable business interests generally to become familiarized with the changed methods under the law and .... to adjust their modes of business to the new requirements.

"It was deemed a matter of primary importance to bring the interests affected into harmonious relations to the law, and to understand that, while it revolutionizes certain methods, it is something more than a merely punitive statute, definig crimes and providing for their punishment, and that its ultimate purpose is the general good of the country ..... This may involve what is sometimes called an educational process in dealing with intelligent men, not essentially bad or engaged in criminal pursuits, but whose faults were in many respects wrong methods in the conduct of a legitimate business, in which they had too often been taught the success might be regarded as justifying the methods employed. A standard of right and wrong as well as of legal duty was to be set up, and conformity to this standard induced, if possible, by the conviction that

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(*) Estimates are of the statistical section, NRA Division of Review and are based on monthly employment reports of the Bureau of Foreign and Domestic Commerce, derived in turn from the Bureau of Labor Statistics and other sources.

their true interests would be better promoted." (*)

It would have been not only administratively unwise, but practically impossible to have brought each case of infraction of a code provision into the Federal Courts.

If there was precedent for the general approach to the problem of code enforcement, there was little in the previous experience of governmental agencies or in the Act which could serve as a guide to the methods which might be followed. The Act provided methods of enforcement through the courts by injunction and by criminal action in the District Courts of the United States. Code standards were also made unfair methods of competition within the meaning of the Federal Trade Commission Act and enforceable by the Commission through cease and desist orders. Neither of these methods offered a solution to the practical problem of correcting a mass of minor violations, many of them unintentional. The procedure followed by the Federal Trade Commission and other semi-judicial bodies could not be followed by NRA, which lacked their legal powers (in particular, the power to compel the submission of evidence and to issue orders enforceable in the Courts).

Furthermore, the procedure of the Federal Trade Commission was adapted to the specialized handling of individual complaints. Under its act the Commission was given the power to restrain acts of unfair competition. It was, however, left to the Commission in particular cases to decide whether certain practices constituted unfair competition, after a usually thorough-going investigation. Needless to say, the work of the Commission tended to fall into certain well-established categories.

In contrast to this the codes undertook to specify in advance what particular acts were per se unfair practices. The list of prohibited acts was not only inflexible, but was large and varied. This enlarged scope of the task, at least insofar as trade practice violations were concerned, served to multiply the difficulties of administration and enforcement because of its very complexity. Certainly, the problems of education were intensified, and because of the additional requirements placed on adjustment agencies a specialized, intensive handling of even each type of violation was virtually precluded.

In the case of labor compliance the experiences of state labor departments were somewhat more analogous. Labor regulations, both under state laws and the codes, fell into fairly definite classes and therefore a similarity in problems of procedure was present. There was, however, in the codes the additional element of considering labor provisions as an item in fair competition. This naturally superimposed the requirement of coordination of local with national problems, which again served to magnify the task.

(*) Third Report of the Interstate Commerce Commission, November 30, 1889, pp. 104-105

As a result of the limitations on the applicability of the experiences derived in the administration of these other laws and regulations, the development of new administrative methods for the NRA codes became essential.

Chapter II - Manner of Approach

Section 1 - The underlying theories of the compliance system. The preliminary administrative steps taken in the enforcement of NRA Codes were based upon two premises. First, that there would be a substantial number of violations, most of which could be corrected by conciliatory and educational methods; and second, that public opinion both within industries and on the part of the general public could be relied on to support NRA standards. It was contemplated that the punitive provisions of the Act would be invoked only where these methods failed. (*) This program stemmed directly out of the Administration's experience with the President's Reemployment Agreement, particularly in its use of insignia for the purpose of distinguishing industry members complying with and supporting the Reemployment Program.

While previous experience with the Reemployment Agreement furnished a definite orientation for the manner in which the problem could be attacked, a fundamental question of policy immediately developed: To what extent should administrative powers with respect to enforcement be vested in Industrial Agencies?

During the first three months of NRA's existence, the energies of both the NRA staff and the industry members who came to Washington to present codes were concerned primarily with the formulation of standards of fair practice and only to a small extent with their administration. Through the process of code formulation and the gradual development of administrative provisions in codes, ran the concept of "industrial self-government". This notion was expressed in code formulation by the requirement that Codes (at least those approved under Section 3 of the NIRA) be presented by a representative group of the industry members intended to be bound by the code. The question which now presented itself was the manner in which industry should participate in the administration of the code.

In order to provide for continued representation for the industry in its relations with NRA and for carrying out of some of the administrative functions which showed themselves necessary, the idea of a "Code Authority" developed early in the process of code formulation. The Code Authority was intended to be a legal entity representative of the industry and vested under the code with administrative powers and planning and research functions. The powers vested in these agencies under the early codes varied greatly. An Industry Committee established by the original Cotton Textile Code had as its functions only planning and the gathering of statistics.

Later codes vested in Code Authorities broad powers of determination for the purpose of putting into effect regulations for which the code

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(*) Wm. H. Davis, National Compliance Director, "NRA Plans for Code Compliance" (December 5, 1933) p. 4; Bulletin No. 7, p. 7.

only specified standards. Provisions dealing with enforcement, if they appeared at all, were similarly varied. The second code to be approved, the Wool Textile Code, provided for a system of mandatory arbitration for the settlement of complaints of code violation. The Men's Clothing Code (Number 15) not only empowered the Code Authority to make investigation of charges of violation, but imposed upon it a positive obligation to do so.

By October, 1933, the problem of enforcement began to make itself felt in the form of individual instances of code violations which could not be corrected by conciliatory efforts made in most cases by Code Authorities or by Deputy Administrators. Because of this fact the establishment of a definite procedure for the handling of administrative work connected with enforcement steps became apparent. While, as we have noted above, there was a developing tendency to vest administrative powers in Code Authorities, the Act itself placed the responsibility for enforcement proceedings in the hands of the Government alone by limiting legal remedies to the Government. (*)

On November 22, 1933, General Johnson issued a statement of policy with a view to clarifying the question of responsibility for enforcement and defining the part which industry would play in code administration. (**) He stated the aim of NRA as being to give to Code Authorities the widest possible range of self-government. However, the ultimate responsibility of code administration rested with the Government and NRA would undertake to supervise code administration by Code Authorities. The Administrator segregated code administration into two aspects: one, "normal code administration", extended to such functions as planning, the collection of statistics, the rendering of reports on conditions in the industry, etc; the other included educational and administrative steps taken with a view to securing compliance with code requirements. The Administrator's definition of what has since come to be known as "Compliance" may well be quoted here for the clarity with which it distinguishes this aspect of code administration not only from normal code administration but also from enforcement, the institution of legal proceedings to compel compliance with code requirements:

> "(a) The instruction and education of those subject to the code as to their responsibilities thereunder so as to anticipate and avoid complaints of non-compliance.
>
> (b) The adjustment of complaints of non-compliance by education, fair findings of facts, and the pressure of opinion within the Industry.

(*) See Section 3(c) of the National Industrial Recovery Act. See also Purvis v. Bazemore, Western Powder Manufacturing Co. v. Interstate Coal Co., and other cases cited in Office Manual, Part V, Section V, "Jurisdiction and Parties."

(**) Release No. 1847 (November 22, 1933)

(c) The adjustment of complaints by arbitration, conciliation, and mediation.

(d) The rendition of reports to the enforcement agencies of government in those cases where all other means have failed. Such reports should be based upon adequate findings of fact." (*)

Industries which were sufficiently well organized to have agreed upon a code were deemed to be prepared to undertake functions of normal code administration. In the field of compliance, however, industry was not prepared or equipped to deal with enforcement problems. This function, it was declared, would be assumed by NRA until such time as industry was organized to carry it out. The following program was laid down for the transfer of compliance functions from the Government to industry:

"As soon as a Code Authority is set up and ready to function, it will usually be well enough organized to adjust most complaints of violations of the trade practice provisions of the code. Such complaints involve the rights of one employer against another employer within the industry. Trade associations and other existing agencies of industrial self-government are well suited to the handling of this type of complaint, although, of course, the public interest must be safeguarded by general governmental exercise of a veto. This governmental veto power is the substitute for the anti-trust laws in this new set-up. In most cases, the government representative on a Code Authority sits without vote, but with a veto.

"The function of securing compliance with the labor provisions of codes presents a much more difficult problem of organization and administration. Very few industries are organized at this time along lines suitable to adjustment and fact finding in this type of case. Complaints of violations of labor provisions should not be referred to Code Authorities (or any agencies of industrial self-government) unless such agencies have adequate labor representation thereon. Most codes do not provide for such representation.

"The problem of Code Compliance, by its very nature, requires a regional system of fact finding and adjustment agencies appropriate to the handling of labor complaints. In order to protect the interests and rights of an employee under a code, the employee must be furnished with an agency convenient in location and impartial in nature. The government has provided twenty-six regional compliance agencies, to which complaints of code violations may be referred where there is no approved machinery within the industry to handle such complaints.

(*) Ibid., p. 1

"This system will fill the blanks in industrial self-government. It will act for an industry while the industry is organizing to handle such compliance problems for itself; or where an industry in a certain territory has no agencies of industrial self-government; or where an industry, though organized to handle trade practice complaints, has no machinery approved to handle labor complaints; or where approved machinery has failed to adjust a complaint." (*)

The original program for compliance administration was followed throughout the greater part of the existence of NRA with little divergence except upon two points, the cessation of efforts to organize industry for the handling of labor complaints and the attempt made late in the development of compliance administration to shift the basis for compliance work from merely acting on complaints to inspection. However, although new legal instrumentalities were devised (such as the methods provided for dealing with violations occurring in connection with government contracts) and new administration agencies were established, the fundamental approach to the problem remained the same.

Section 2 - The establishment of an administrative procedure. It has been shown that the codification of industry created a vast and novel federal administrative problem. Such precedents and guides as did exist did not furnish a strict analogy for an approach to the problem. The procedure which was established, therefore, in October, 1933, was in a sense in the nature of an experiment for dealing with the problem. (**)

Inasmuch as employees had been taught to complain to Local Compliance Boards of NRA violations, and since so much reliance was placed on public support, it was natural that the new code compliance procedure was based entirely on the filing of complaints by employees, competitors and others. No facilities were provided in the new governmental adjustment system for initiating compliance activities, since the procedure was predicated on the filing of a formal complaint which had to meet certain requirements as to legal sufficiency. In this respect the procedure resembled that of the Federal Trade Commission, although it has been shown the problems of the latter were different.

There was developed as the method of administering the codes the "adjustment" of complaints. By this was meant the bringing about of conformity to code provisions. It will be shown in the succeeding chapter that the application of this method of code administration was changed and modified as the growing experience in gaining compliance indicated the need for stress on particular phases of the work.

(*) Ibid., p. 2.

(**) The development of compliance procedure is discussed in Chapter V and VI, infra.

Generally speaking, the adjustment of cases included both the idea of informing the respondents of their obligations and thus attempting to insure future compliance, but also, with increasing importance as time passed, the correction of past violations by compensating the parties injured thereby. In labor violations particularly was the latter true.

Here there was precedent. As outlined in a letter of March 26, 1935 from Mr. A. J. Altmeyer, Second Assistant Secretary of Labor, to the Counsel for the Compliance Division, the practice of obtaining wage restitutions from violators of minimum wage laws had been followed by the state labor departments for a number of years.(*) The advantages of requiring this form of adjustment were summed up as follows:

"(1) It makes the violator pay a money amount on account of past violations more promptly than if legal action were commenced.

(2) It holds over the violator's head the possibility of prosecution for past violations if there are future violations.

(3) It gives an opportunity to the enforcement agency to make clear to the violator the fundamental purposes of the law since it illustrates the fact that the government is not so much interested in punitive measures taking the form of prosecution as it is in making certain that the purpose of the law is carried out.

"All successful administrators of state laws I am sure would agree that the result is that there is a greater percentage of willing compliance, upon which after all we must depend for the successful operation of a law." (**)

At this point is recalled the two premises, heretofore mentioned, on which the compliance program was based, namely, that there would be a large number of violations which could be corrected by adjustment, and that public support would be given to the administration of the codes. As a corollary to the first premise, the great majority of respondents were believed to act without any deliberate intent to violate the law and it was felt that the remaining few could be effectively dealt with through the legal processes defined by the Act. This, of course, presupposed the enforceability and legal soundness of the codes.

(*) In NRA Studies Special Exhibits Work Materials # 77.

(**) Idem.

If the first premise was a prerequisite of any adjustment machinery, the second was the heart of the administrative system. It was the cradle for the use of NRA in industry, for the reliance on complaints as the basis of procedure, and for the requisite outside influence needed for the effective adjustment of violations.

PART II

GOVERNMENTAL ORGANIZATION AND PROCEDURE

Chapter III - The Administrative Settlement of Code Violations

Section 1 - The need for correcting violations by administrative measures. It is a fundamental concept of industrial regulation and labor legislation, based on the experience of other governmental agencies engaged in the administration of new laws of wide and far-reaching application which do not deal with matters considered as malum per se, that the successful operation of the statute ultimately depends on the education of persons affected by it to their obligations under the law, and on the presence of a strong public opinion favoring enforcement. (*) This fact was recognized by the Interstate Commerce Commission in its report to Congress in 1869. (**) It is clearly illustrated by the government's experience in Prohibition Law enforcement.

The most obvious, and possibly the most effective method of education and development of support by the members of industry was to correct the violations committed, and to bring the employers' business operations into conformity with the codes. Coupled with this there had to be the instruction of employers as to the meaning of code provisions and the explanation of the benefits to be derived from compliance with the NRA program.

Aside from fulfilling the fundamental need described above, the use of a system of administrative settlement of code violations was dictated by the practical limitations of the enforcement systems provided by the Act. (***) This statement is so self-evident that it is hardly necessary more than to mention that approximately 180,000 complaints of code violations were docketed by the field offices of the Compliance Division. This figure is exclusive of complaints handled by Code Authorities and complaints charging violations of the President's Reemployment Agreement. The volume of cases would have increased considerably had the NRA actively sought out violations, under any system similar to mass compliance.

(*) This is the underlying theory of the adjustment system, see NRA Bulletin No. 7, p. 3, Code Administration for compliance "includes: (a) The instruction and education of those subject to the code as to their responsibilities thereunder so as to anticipate and avoid complaints of noncompliance. (b) The adjustment of complaints of noncompliance by education, findings of facts, and the pressure of opinion within the Industry - - -."

(**) Supra, P.2.

(***) Title I, section 3 paragraphs (b), (c), (f), provided respectively for proceedings by the Federal Trade Commission under its organic act, suits by the various District Attorneys to restrain code violations, and prosecutions of code violations as misdemeanors. The penalties were restricted to transactions in or affecting interstate or foreign commerce.

Section 2 - Source of authority for the administrative settlement of complaints. Nowhere in the National Industrial Recovery Act is there any expressed delegation of power to the President or his appointed agents to administer the various codes of fair competition, to handle complaints, or adjust cases of violation, nor is there any statement of responsibility to do so.

However, without entering on a discussion of the legal questions involved, it is sufficient to treat the function of administering as implied from the power granted to the President to establish agencies, appoint personnel, and to prescribe their duties and authority (*) and also from the practical necessity of administering the codes once they were approved.

Under Section 2(b) of the Act, (**) the President delegated this function with others to the Administrator (***) who issued the regulations for the adjustment of cases (****) and under whose direction the Compliance Division was established and invested with the duty of obtaining compliance with the various codes and the President's Reemployment Agreement by the members of industry. (*****)

(*) National Industrial Recovery Act, Title I, Section 2(a) provides as follows: "To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint, without regard to the provisions of the civil service laws, such officers and employees, and to utilize such Federal officers and employees, and, with the consent of the State, such State, and Local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed."

(**) Note (6), supra. Section 2(b) provides as follows: "The President may delegate any of his functions and powers under this title to such officers, agents, and employees, as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title."

(***) Executive Orders 6173 (June 16, 1933), 6205-A (July 15, 1933). The National Industrial Recovery Board was invested with the same powers at the time of its appointment by Executive Order 6859 (September 27, 1934) and 6993 (March 21, 1935).

(****) "Regulations for the adjustment by District Compliance Directors of complaints of code violations" (October 19, 1933), signed by Hugh S. Johnson, Administrator, and approved by the Special Industrial Recovery Board; Release No. 1847 (November 22, 1935), statement by General Johnson regarding code administration; NRA Bulletin No. 7, "Manual for the adjustment of complaints by State Directors and Code Authorities" (January 22, 1934); Administrative Order X-14 (April 6, 1934); Administrative Order X-29 (May 12, 1934); Office Manual, III-4100 et seq., Compliance (March 27, 1935). See also Office Order 40 (October 26, 1933), which among other things in effect delegated to the Compliance Division the power to issue instructions as to the adjustment of cases.

(*****) Office Order 40 (October 26, 1933).

Section 3 - The function of the Compliance Division to adjust complaints. It was the duty of the Compliance Division, as stated in Office Order 40 (*) establishing the Division, to endeavor to adjust all complaints of violations of codes of fair competition, and of the President's Reemployment Agreement. This function was further stated by the Administrator as the adjustment of complaints of non-compliance by education, fair findings of fact, and the pressure of opinion within the industry and by arbitration, conciliation, and mediation. (**) There was provided an administrative machinery for the handling and adjustment of complaints which had its climax in the procedure provided for removal of NRA insignia from violators and the reference of unadjusted cases to the law enforcement agencies of the Government. (***)

This idea of adjustment of cases of violations found precedent in the established practices of the Federal Trade Commission and the State Labor Departments. A report of the Women's Bureau of the U. S. Department of Labor summed up the administrative efforts of the various States in obtaining compliance with their minimum wage laws, as follows:

> "In enforcing the laws the commissions have relied much more on gaining compliance through setting rates that would command general support from the employers than on forcing obedience through widespread prosecution of non-compliance. When cases of non-compliance have been found, every effort has been made to adjust these cases informally between the employer and the commission's agents." (****)

Part of the adjustments made by State Labor Departments included the collection of back wages as well as obtaining the present conformity of the employer's operations to the law.

Similarly, the Federal Trade Commission for several years prior to the passage of the National Industrial Recovery Act pursued the practice of dismissing cases on stipulation that the respondent would discontinue the acts obnoxious to the Commission. (*****) While a close parallel between this method of operation by the Federal Trade Commission and the adjustment system of NRA cannot be drawn, it is mentioned to show an established method of administering the law where the volume of complaints of violations is too large to be efficiently handled by the enforcement system provided by the statute.

Section 4 - Definition of adjustment. Although, as has been pointed out in the two preceding sections, the functions of the Compliance Division have been stated on numerous occasions to include primarily the adjustment of complaints of violation, a thorough search of orders

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(*) Note (8), Supra
(**) Release 1847, November 22, 1933, statement by General Hugh S. Johnson with regard to code administration. This statement was later incorporated in Bulletin No. 7.
(***) The insignia removal procedure is described below in Chapter VI.
(****) Bulletin 61, "The Development of Minimum Wage Laws in the United States, 1912 to 1927" (1928), 278-319, inclusive, give a detailed discussion of administrative measures employed by sample States; see also pp. 381- 390, inclusive, for a further discussion of the subject.
(*****) "Annual Report of the Federal Trade Commission" (1932) pp. 44,45

and instructions pertaining to the subject fails to reveal any attempt to define "adjustment" until a comparatively late date.(*)

However, the meaning of the term can be arrived at by giving consideration to the common usages of the work, together with the various official statements outlining the functions of the Compliance Division and the elements of code administration.

The standard dictionary definitions give the meaning of the word "adjust" as being to settle, or bring into harmony with the general plan.(**) On the other hand, the word has been given a special meaning in business transactions, e.g. to settle claims, as in the insurance business.

Thus, we see that the meanings credited to "adjustment" by usage embody the idea of the payment of claims or damages, i.e. restitution, and the present correction of variations from the general scheme so as to bring conformity with the rule, i.e. future compliance.

This application of the term is lent dignity by early utterances regarding code administration and compliance. General Johnson in his release regarding code administration (***) said,

"The term 'administration for compliance' is intended to include:
(a) The instruction and education of those subjects to the code as to their responsibilities thereunder so as to anticipate and avoid complaints of non-compliance.
(b) The adjustment of complaints of non-compliance by education, fair findings of facts, and the pressure of opinion within the Industry.
(c) The adjustment of complaints by arbitration, conciliation, and mediation.
(d) The rendition of reports to the enforcement agencies of government in those cases where all other means have failed. Such reports should be based upon adequate findings of fact."

The adjustment of cases by education and instruction of respondents as to their code obligations clearly implies bringing the employers into immediate compliance with the codes so that continued future observation of the code regulations might be virtually self-sustaining (except in wilful cases). Stress was laid on building a sound basis for future code compliance by industry.

(*) Field Letter 125 (June 13, 1934) stated certain standards of adjustment and indirectly defined the word; Field Letter 193 (January 10, 1935) crystallized the meanings heretofore given the term and placed them in definition form; Office Manual, III, 1518.221 and 1518.222 (November 21, 1934).

(**) Webster's New International Dictionary; Funk and Wagnall's New Standard Dictionary; Winston's Simplified Dictionary.

(***) Note p. 13

Recognition was also given to the fact that some sort of recompense should be sought for the damage already done. This is a natural conclusion from adjustment by arbitration, conciliation, and mediation, since in composing the differences between the parties to a complaint, it is usually the aim to compensate the aggrieved person. This idea is, of course, more clearly expressed in violations of wages and hours provisions, where the employee may be paid the deficiency in wage or be compensated for his overtime.

Because of the almost limitless variety of situations arising under code compliance, in which no two cases of violation were exactly alike, it is impossible even after two years of experience to draw a precise definition broad enough to cover all contingencies. However, there were developed definitions which sufficiently embodied the principles and basic elements of adjustment to serve as a general guide in the handling and settlement of cases by the field staff and the compliance councils.

Section 5 - Purpose of adjustment.(*) Throughout the history of compliance the underlying theory of adjustment remained the same. The seeming difference in meanings was due to the changes in stress on particular purposes sought to be accomplished by the device, the gradual evolution of adjustment techniques and policies and the establishment of standards to be followed in handling cases as a result of actual experience.

The original purpose of this system of operation was primarily to instruct employers as to their obligations under the codes and to make them conform to the law both for the present and the future. The idea that this would serve as the soundest basis for permanent administration. While the value of this method of approach should not be underestimated, it was found that something more was needed to prevent recurrences of violations by those employers less cooperative toward the program and

(*) The evolution of the Compliance Division was an organic development. It may be divided into four distinct periods: the District office period from October, 1933 through January, 1934; the early State Director period to June, 1934 (when Field Letter 125 and Supplementary Memorandum No. 1 were issued and the system of reporting to Washington was changed); the later State Director period from June, 1934 to January, 1935 (when the Regional office system began to function); and the final stage from January, 1935 (under the Regional system and when Field Letter 193 was issued) to May 27, 1935 (when the Supreme Court decision in the Schechter Poultry case was announced). This was all presaged by the earlier period of NRA activity. Adjustment policies, internal organization, and compliance procedure all developed together during these periods.

less receptive to education by instruction.

Adjustment then came to have an apparently different meaning. The original idea of restitution merely to place the parties in status quo was enlarged to include the element of a deterrent to future violations, although in form NRA still clung to the first definition.(*) Thus, in Field Letter 125 and in the Supplementary Memorandum No. 1 to Bulletin No. 7, there was stated for the first time in form of written instructions that a higher rate, varying from time and one-third upward, must be paid for illegal overtime in order to effect a satisfactory adjustment.(**) Likewise, in the absence of records, the field offices were told to accept the employees' statements at their face value (within the discretion of the offices) and to place on the respondents the burden of proof.(***)

This change in the purpose of adjustment is reflected in the development of standards and rules of adjustment, discussed later.

Section 6 - Evolution of an adjustment policy. In the beginning of compliance activities and until June, 1934 there was little attention paid to wage restitutions in adjusted cases. As has been stated before, the principal idea in adjusting cases was to make the respondent bring his business operations into conformity with the code provisions and agree to comply in the future. While the instructions for handling complaints contemplated the payment of back wages in some cases(****) the restitution principle had a very hazy and indefinite place in adjustments. The adjustment of cases by conciliation, mediation, and arbitration,(*****) while implying restitution

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(*) Office Manual, III, 4100.2 (March 27, 1935) defined restitution as follows: "'Restitution' for a violation means repairing the damage caused by the violation so far as is practicable in the judgment of NRA and in a manner consistent with NRA policy." The latter part of the definition contains such general qualifications as to make it unsatisfactory as a guide to field offices for policy in handling cases.

(**) "Supplementary Memorandum No. 1, "Relative to the Adjustment of Complaints", p. 5 (issued attached to Field Letter 125); Field Letter 125, "Manual for the Handling of Labor Complaints"(June 13, 1934) p. 4.

(***) Supplementary Memorandum No. 1, p. 6, Field Letter 125, p. 8 stated the principle only with relation to cases under codes requiring the keeping of records. For further development of this practice see Chapter V and the Part of the History devoted to a discussion of outstanding problems.

(****) Liason Circular 75 (October 30, 1933), with which were transmitted the initial instructions to District Compliance Directors on adjusting cases, said: "There are circumstances under which a further adjustment is necessary other than a mere explanation of the employer's obligations." For example, it stated that the deficiency should be paid in minimum wage violations. (p. 2, par. C) It went on to say that no restitution could be made in child labor violations, only a correction to conform in the present and future being necessary. (p. 2, par. H).

(*****) Note (p. 13

also indicated that the amount of back wages was to be determined by agreement between the parties as to the facts.

This is stated in Bulletin No.7 as follows:

> "If the respondent admits the violation alleged but furnishes satisfactory evidence that he is now complying, is willing to comply in the future and has made equitable restitution for past violations, the case will be considered as adjusted and the complainant and respondent will be so notified."(*)

Many cases, especially during the period before the establishment of the State office system in January, 1934, were adjusted and closed merely on the agreement of the respondent to comply in the future. Little or no attempt was made to rectify past violations other than by explaining the necessary changes in operation and obtaining agreements to comply in the future, which were often informal and oral. Restitution was required only in infrequent cases, where the complainant was unusually insistent, and then was ordinarily the result of compromise between complainant and respondent.

It must be remembered in this connection that this was the initial period of experimentation. The personnel, both in Washington and in the field, was with few exceptions totally inexperienced in the administration of industrial regulations. A direct result of the lack of experience was the absence of adequate instructions and working policies, which could be successfully developed only from actual contact with the problems of code administration.

Added to this was the fact that the field offices were greatly undermanned. The normal staff consisted of the District Compliance Director, his assistant, a Legal Adviser, and perhaps one other person who divided his time between the field office and the Local Compliance Board. There was also, of course, stenographic and clerical assistance. In the Missouri office, for example, there were but two people actually handling the complaints which were pouring in at the rate of about 70 to 80 per week.

The lack of an adequate, trained staff grew to be one of the outstanding problems of the Compliance Division, both in Washington and in the field, and played an important part in the formulation of policies of procedure.

With the added experience in obtaining compliance and the increased staff under the State office system, came a gradual change in the adjustment policy. While this step in the development did not become really apparent so as to be officially adopted by the Compliance Division until June, 1934, it was well recognized in the field several

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(*) Bulletin No. 7, p. 14, (Underlining supplied).

months before. (*)

Acting on their own initiative the state offices laid more and more stress on back wage restitutions and formal assurances of present and future compliance. Instead of the original policy, dictated by necessity of circumstances, of taking the repondent's assurance of cooperation at its face value, stricter standards of adjustment were introduced. The requirement of convincing proof of present compliance and payment of all back wages due to the complainant as well as to the other employees of the respondent, tended to become the policy of the field offices in adjusting complaints. (**)
This change in adjustment policy was caused not only by experience in handling cases, but by extreme pressure from labor and the more responsible employers who saw that this was the only feasible method of dealing with violations administratively.

Coincidentally with the development taking place in the field, and even slightly preceding it, the National Compliance Board began

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(*) This change in adjustment policy did not occur uniformly throughout the field. Some offices preferred to regard as adjusted any complaint which had been properly cleared from the record in accordance with the reporting system then in effect.

Thus, when a case was transferred to another agency, either a Code Authority or the National Compliance Director for instance, for further attempts at settlement, the obligation to adjust the complaint was regarded as terminated. That this was a spurious presumption is clear when it is recalled that many such cases were returned to the State Offices still unadjusted several months later. It was partially because the more progressive offices realized the fallacy of this definition of adjustment that they gravitated toward a stricter policy of adjustments in fact, rather than through a mere bookkeeping device.

This lack of homegeneity of the field offices in development of their credos of adjustment and methods of operation was due to variations in personalities and outside influences on the particular offices. This is discussed in more detail under Chapter IV.

(**) One should avoid the inference that the changes in adjustment policy sketched in this section were sudden, or unknown to the entire staff in Washington. Those persons who came in contact with field work, even indirectly, were also cognizant of the change and the necessity for it, although perhaps less vividly so. It was only this fact that official recognition could be accorded. The development was a matter of growth rather than a sudden determination.

to tend toward a more strict adjustment policy. Unfortunately, the policies established by the Board were not communicated to the field, except indirectly in isolated cases, until June, 1934.

Thus, we see the National Compliance Board adopting the following statement of policy at its 28th meeting, on December 13, 1933:

> "The NRA Policy is well established that the National Compliance Board or a local Compliance Board may properly require an adjustment by restitution of back pay as a condition to continued display of the Blue Eagle under PRA or as a condition to restoration of the Blue Eagle.
>
> "A number of local Compliance Boards are on record as refusing to put themselves in the position of collection agencies. As a matter of practical administration, we may advise the local compliance boards to assist in recovering back pay. The local compliance boards may adopt the policy of withholding recommendations for removal of Blue Eagles from violators of PRA who make restitution to employees."

At the same meeting the Board established the principle that restitution for overtime, in addition to assurance of future compliance, was necessary for restoration of the Blue Eagle. (*) Previously the Board had established the practice of requiring formal agreements to adjust and to comply in the future. (**) These two policies were followed by the Board in handling cases before it until its abolition on May 21, 1934 by Office Order 90. (***)

Moreover, the National Compliance Board early recognized the penalty element in adjustment and shaped its policies to include that direction. In the True Form Corset Co. case, December 6, 1933, it required as a part of the adjustment that the respondent pay the costs of an audit to determine the amount of restitution and also pay a sum to the Code Authority to reimburse it for investigational expenses.(****)

(*) Complaint against Consumers Food Stores, Bridgeport, Conn., respondent, minutes of 28th meeting, December 13, 1933. See also case against Moro Manufacturing Co., New Orleans, La., respondent, minutes of 29th meeting, December 15, 1933. See Field Division files.

(**) For example see minutes of hearing of True Form Corset Co., Philadelphia, Pa., December 6, 1933. See Field Division files.

(***) These policies were carried on by the Advisory Council, shortly changed to the Compliance Council, which was established by the Compliance Division pursuant to Office Order 90. The Advisory Council took over the work of the National Compliance Board without a break. In fact the change was hardly known to persons outside NRA in Washington. See Chapter VI, infra, for a further discussion.

(****) See Note (27), supra.

This is better illustrated by the following statement of policy on February 9, 1934:

> "National Compliance Board regards payment of cost of audit by respondent as a fair and necessary part of the restitution."(*)

The obvious purpose of this was two-fold: to conserve compliance facilities of the Compliance Division and the Code Authorities and to add an extra burden on the respondent in making the adjustment so as to tend to minimize any future desire to violate again.(**)

In Field Letter 119 (June 6, 1934) there was inaugurated a new system of reporting from the field offices to the Compliance Division in Washington. Beginning with the period of June 16 to June 23, 1934 the offices reported the amounts of back wages paid by respondents in adjusting both PRA and code violations complaints. From this time on (when Field Letter 125 and Supplementary Memorandum No. 1 to Bulletin No. 7 were also issued) until the termination of compliance activities on May 27, 1935, continued emphasis was laid on wage restitutions in making adjustments. The reasons for this attitude have been discussed in the preceding section.

In this connection it is well to note that under the new reporting system the field offices were required to show which of the valid complaints had been adjusted by the payment of back wages. Where the report to Washington showed complaints which had been closed without the respondent making restitution to his employees, there was always the distinct possibility of the office being called to account and being made to give sometimes embarrassing explanations of the departures from adjustment standards. Conversely, the idea was generated that the efficiency of the various offices would be judged by the number of cases reported as adjusted and the amount of restitution made by employers to their workers through the efforts of the particular office.

This served as a very important psychological factor in causing all field offices to raise their individual standards of adjustment and to become more and more active and thorough in the searching out

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(*) Minutes of 67th meeting, February 9, 1934. See Field Division files.

(**) The development of the Board's policy to require penalty rates in the case of illegal overtime will be discussed in the subsequent sections of this chapter devoted to a treatment of the creation of standards of adjustment.

and correcting of violations of code labor provisions.

Although not directly traceable to it, nevertheless, it is interesting to note that this official manifestation of change in adjustment policy was coincidental with the creation of the office of Assistant Administrator for Field Administration.(*) The newly established position carried with it the functions of supervision over the execution of policies governing compliance, enforcement, and code authority organization; the coordination of the Industry Divisions with the Compliance and Litigation Divisions; and the making and execution of operating plans for the development of field compliance and field agencies.

At about this time also, the word "equitable" was dropped in describing restitution.(**) Field Letter 125 speaks of "full restitution."(***) The use of the word "equitable" in connection with restitution seems to have been religiously avoided by the Compliance Division (except in those few cases of extreme financial inability, etc. where compromises were permitted) (****) from that time on.(*****)

The policy of adjustment of complaints was finally stated in the Office Manual, III, 4111 (March 27, 1935), as follows: "No case may be filed as adjusted unless restitution has been made to the extent deemed just and equitable by the Compliance Division."

It has already been shown that the "extent deemed just and equitable by the Compliance Division" was full restitution to all employees, except in those extraordinary cases where compromise settlements were permitted.(******) An exclusive, special procedure was finally established for this latter type of adjustment.(*******)

(*)Office Order 1.2 (early June, 1934).

(**)See note page 18, supra.

(***)Field Letter 125, p. 4.

(****)Discussed in Chapter V, Section 9.

(*****)The term "equitable restitution" re-occurs in the Office Manual, (Code Authority Organization), III, 1518.221, which states the policy to be, "Upon determination of a violation, the committee may consider the compliant adjusted if the respondent makes equitable restitution and gives satisfactory assurance of present and future compliance." Compare this with the statement of policy, prepared by the Compliance Division, contained in the Office Manual, III, 4100.5 and 4111, mentioned in the text immediately following.

(******)See note page 20 , supra.

(*******)Field letter 104, p. 3.

The corruption of this strict policy of adjustment will be shown later under a discussion of the practice of dropping cases.

Section 7 - The development of standards of adjustment. Having considered the definition and purposes of the adjustment and the development of policies, it is well to look at the standards which were employed to insure that the handling of complaints would be fairly uniform and in accord with the theory.

The statement of the functions of the Compliance Division (*) in itself served as a general guide. By it the assurance of present and future compliance was made necessary in all cases.

Aside from the definition of adjustment (as shown in section 4 above) and the statement of the elements and functions of administration for compliance by General Johnson,(**) there were no definite standards for the adjustment of wages and hours violation until Field Letter 125. Definite standards for the adjustment of trade practice cases were never introduced.(***) However, Liaison Circular 75 gave indications of the standards to be followed in some cases.

The only pre-requisite to adjustment in the form of a definite standard to be met was contained in Field Letter 28 (December 22, 1933), which provided that whenever a complaint appeared to be justified, and the complainant had lost his job by reason of filing it, reemployment should be a condition precedent to closing the case. This was previous to Executive Order 6711, May 15, 1934, definitely prohibiting discrimination against complaining employees.

Closely interrelated with the development of the definition and policy of adjustment, there were evolved standards for the closure of cases of particular types of violations. This has been treated briefly in the foregoing section on the development of policy.

With the growth of the idea in the field that it must be made unprofitable to violate codes, there was a natural tightening of requirements for considering a case satisfactorily adjusted. For example, more attention was given to restitution covering violations as to all employees. In cases of overtime violations, the adjustment was required to include payment at time and one-third, or the rate specified in the code for overtime permitted in cases of emergencies, etc. The latter practice was adopted by the various field offices in the handling of individual cases, without definite instructions prescribing an overtime rate.

(*)See Note page 13 supra.

(**)See Note page 13 supra.

(***)Field Letter 193 (January 10, 1935), p. 9.

This directly reflects the slightly earlier trend of the National Compliance Board discussed in the section of this Chapter immediately preceding. In one of the early cases where restoration of the Blue Eagle was sought(*) the Chairman of the Board, who was also National Compliance Director, expressed the opinion of the Board as being that full restitution during the entire period of non-compliance should be made before the insignia were restored.

At a comparatively early date also, there was considered the setting of a standard for adjustment of maximum hour violations. The National Compliance Board disapproved the setting of a definite rate of payment for adjustment, and enunciated the principle that no less than the rates provided in the codes for legal overtime would be accepted as a satisfactory adjustment. (**) The right was reserved to increase the premium in particular cases.

Shortly thereafter the Board disapproved a proposed modification of the standard that all restitution for illegal over-time should be at a rate higher than that for hour tolerances provided in the codes.(***)

This standard remained in use until April 26, 1934, when the Board, having had considerable intervening experience in handling cases, held in a case before it,

> "Adjustment for overtime employment of an employee, whose employment in excess of the maximum hours is a violation of the Code should always provide payment to such employee at a higher rate than that specified in the Code for overtime employment of an employee who is permitted by the Code to work overtime."(****)

The form of adjustment agreement was then changed to include restitution at time and one-half for maximum hour violations.

(*)Loft Candy Stores, Inc., Washington, D. C., respondent, minutes of 31st meeting, December 5, 1933. See also note page 18 supra. See Field Division files.

(**)Minutes of 67th meeting, February 9, 1934. See Field Division files.

(***)Minutes of 71st meeting, February 13, 1934. See Field Division files.

(****)American Heat Co., Cleveland, Ohio, respondent, minutes of 122nd meeting, April 26, 1934. See Field Division files.

This announcement of a standard of adjustment is especially significant since the functions of the National Compliance Board had been restated in Office Order 74 (March 26. 1934) as including furnishing recommendations on general compliance policy and procedure to the National Compliance Director.

The Board's decision was adopted by the Compliance Division in essentially the same form and issued to the field as instructions in Field Letter 135 and Supplementary Memorandum 1 to Bulletin 7.(*)

By May, 1934, then, the National Compliance Board and the State Offices had created standards of adjustment covering cases of violation of the minimum wage and maximum hours provisions of the codes, in addition to the instruction contained in Field Letter 28 that reinstatement of an employee discharged for complaining, where the complaint was justified, should be made a condition precedent to filing the case as adjusted.(**) Generally speaking, as to trade practice violations and cases of non-compliance with labor provisions other than wages and hours, the only requirements for adjustment were present conformity to the codes and formal agreements to comply in the future.

As a corrollary to the creation of standards of adjustment, was the more active interest taken by the state offices and the National Compliance Board in the obtaining of compliance through the adjustment of cases. Thus, even where the complainant withdrew his complaint with assurances that conditions had been corrected, experience dictated the necessity of continuing to handle the case until convinced that a satisfactory adjustment had actually been made.(***)

We have traced the development of the definition and purposes of adjustment and the evolution of the policy and standards to be followed in closing cases. Consideration should now be given to the instructions issued by the Compliance Division to its field offices regarding the handling of complaints.

Section 8 - Instructions issued to the field offices.(****) The issuance of Field Letter 125 marked a new era in administration for compliance. In it was contained what was regarded then as a strict set of rules for the adjustment of cases. In fact, however, it was really a collection of the general principles previously developed in the field and in cases

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(*) Note (20), supra.

(**) See p. supra; see also City Bakery Co., De Queen, Ark. respondent, National Compliance Board minutes, 51st meeting, January 22, 1934. See Field Division files.

(***)Broadway Motors, Inc., Chicago, Ill., respondent, National Compliance Board Minutes, 97th meeting, March 22, 1934. See Field Division files.

(****)The complete text of instructions issued to the field on standards of adjustment may be found in Supplementary Memorandum No. 1; Field Letters 125, 143, 148, 160, 193 and 194; and Office Manual, III, 4110 et seq.. For obvious reasons this section is devoted merely to a discussion of the general contents of those instructions.

before the National Compliance Board, under which considerable discretion was left in the field personnel in the application of those standards.

In reading the "Manual for the Handling of Labor Complaints" it is important to remember that, being based entirely on experience, it was both sound and practical, and was used as a bible by the field staff.

Under the heading "What Constitutes Satisfactory Adjustment of Complaints," there were enumerated standards of adjustment for violations of the labor provisions of the various codes.

In correcting a minimum wage violation the respondent was required to make full restitution of back wages due, based on the code minimum for the entire period from the effective date of the code. (*). Likewise, in adjusting maximum hour violations restitution was made at a higher rate than that for regular working hours. In the event overtime was permitted by the code in certain limited types of situations, such as emergencies and breakdowns requiring the protection of life or property, for which an overtime rate was specified, the restitution rate was supposed to be placed higher. (**). However, in practice the field offices generally only placed the overtime restitution at time and one-third.

Where the respondent had employed "learners" in excess of the number permitted by the code, or had improperly classified workers as "handicapped," either failing to obtain the necessary permit (***) or exceeding the allotted ratio, adjustment was made by paying the deficiency in the code minimum wage to those employees necessary to bring the respondent into compliance with the code requirements. (****) Restitution was made, in the case of "learners," usually on the basis of seniority in experience, and, in the case of "handicapped workers," generally according to actual earning capacity.

Discretion was placed in the field offices in the application of the standards mentioned above in those cases where the employer seemed financially unable to make full restitution, or where other circumstances appeared to warrant an exemption from the standard requirements. (*****). In those special cases, adjustment for less than full restitution had to depend on the recommendation and approval of the State Adjustment Boards, (******) whose organization and functions will be treated fully under the subsequent chapter on compliance procedure in the field.

Standards of adjustment were also stated for those types of cases in which money restitutions were not practicable.

(*) Field Letter 125, p. 4.
(**) Idem.
(***) Under Executive Order 6606-F (February 17, 1934) "handicapped" workers might be employed at less than the code minimum wage on the obtaining of individual permits issued under regulations prescribed by the U.S. Department of Labor.
(****) Field Letter 125, p. 6.
(*****) Field Letter 125, pp. 4 and 5.
(******) Ibid, pp. 4, 5 and 34.

Where the employee had been discharged for filing a complaint, adjustment included reinstatement and agreement not to discriminate against him, or where reinstatement on a harmonious basis seemed impossible, the cooperation of the respondent in securing a new job for the employee. (*)

Where the violation was the failure to post code labor provisions, (**) to keep proper records, (***) or the infraction of child labor, homework, safety, and other labor provisions, (****) the standards of adjustment did not generally require any form of restitution. The adjustment of violations of productive hours restrictions (strictly speaking trade practice provisions) was left entirely to the discretion of the field personnel, there being only suggestions as to several possible adjustment devices. (*****)

In addition to the particular standards set forth above, Field Letter 125 contained general standards applicable to all cases. Thus, by full restitution was meant adjustment as to all employees, regardless of whether or not they had complained.

Moreover, there had to be a formal statement of compliance, covering the points on a suggested form, and assurance that steps had been taken to prevent recurrences of violations. (******)

The field offices were definitely instructed not to file cases as adjusted until all terms of the adjustment had been complied with, that is, for instance, until the payment of the last installment where restitution was made in several payments, unless sufficient security therefor had been furnished. (*******)

Also Field Letter 125 suggested that attempts be made to have the respondents install and agree to maintain adequate sets of records, so as to help insure future compliance. The importance of this will be developed in later chapters.

The standards of adjustment contained in Field Letter 125 were restated and included in Supplementary Memorandum No. 1 to Bulletin No. 7, issued at the same time. It further summed up the standards of adjustment by the following statement:

> "If violations are discovered or admitted, evidence of proper adjustment must be secured as follows:
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> "A. Evidence that the hours and wages of every employee (or if that is not practical, of certain specified classes of employees) have been verified for the period in question either by examination

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(*) IBID, pp. 5 and 15.
(**) Ibid, p. 5.
(***) Ibid, p. 8.
(****) Ibid, p. 7.
(*****) Field Letter 125, p. 7.
(******) Ibid, pp. 16 and 17.
(*******) Ibid, p. 17.

"of the employer's hours and wage records or of certified copies thereof. If the employer has not kept such records, he should at least be required to file a certified copy of his payroll.

"B. In all cases involving the payment of back wages, evidence that restitution has actually been made should be required.

"C. The employer should be required to file a written statement that he has corrected past violations and that he will comply in the future." (*)

With a few minor amplifications of the instructions contained in Field Letter 125 and Supplementary Memorandum No. 1, those standards continued intact until the issuance of Field Letter 193 on January 10, 1935. In the meantime, of course, the further refinement of these standards and the development of their application was continued through the day by day experience of the Compliance Division in handling complaints.

Field Letter 193, to a large measure, repeated the instructions theretofore issued, but placed them in more emphatic form and made adherence to them more obligatory on the part of the State Offices.

A general rule of thumb was announced in the shape of a definition of adjustment:

"A case is adjusted when the employer is in full compliance and restitution has been made." (**)

Simple as this definition was, read in the light of field experience and the development of the methods and policies of the Compliance Division it was pregnant with meaning. It was taken literally and full significance was given every word in denoting the basic policy of adjustment.

At this time forms of certificates of compliance for both labor and trade practice complaints, and agreement to make restitution in labor cases, similar to those used by the old National Compliance Board and the Compliance Council, were adopted for field use. (***)

Changes were made in the standards of adjustment in that one and one-half times the regular rate of pay or the code minimum, whichever was higher, was definitely stated to be the minimum rate in computing restitution for violations of maximum hours; (****) and piece-workers were required to be compensated for all plant hours during which they were on their employers' premises and available for work, unless the respondents were able to establish the employees' presence was not required and they had prior notice to that effect. (*****)

(*) Supplementary Memorandum No. 1 to Bulletin No. 7, p. 4.
(**) Field Letter 193, p. 5.
(***) Field Letter 193 pp. 8, 9, 11, 12, 13, 14.
(****) Ibid., p. 7
(*****) Ibid., p. 8

In Field Letter 194 (January 18, 1935) a further restriction was placed on the application of standards of adjustment. A new, definite procedure was created for the adjustment of cases with less than full restitution. (*) Under prior instructions such special cases were left to the discretion of the State Offices on recommendation and approval of the State Adjustment Boards. (**) This new procedure, however, was exclusive and was designed to strengthen the standards of adjustment by making the exceptions to the usual requirements more difficult to obtain.(***)

However, since this procedure tended to interfere with the State Offices' practice in suspending action on certain types of cases where deemed advisable, and adversely affected the use of State and Local Adjustment Boards, it was not strictly followed by the field offices. (****)

In March, 1935 the instructions previously issued by the Compliance Division were compiled and included in the new Office Manual. (*****) Inasmuch as there was no revision or change in the standards of adjustment after Field Letter 194, a further discussion of the contents of the Office Manual on this subject is not deemed necessary.

In the last few months of NRA there was a slackening of the strict application of these standards in certain types of cases. This was evidnet in the service trades and in some other intrastate industries, especially in states where the courts were not favorably disposed toward the codes. This apparently backward step in policy was the product of both expediency and experience. A further discission of this aspect, however, is postponed until consideration has been given to the procedure developed and followed and study has been made of the various influences entering into the historical growth of the Compliance Division.

(*) Field Letter 194, p. 2, et seq. Similar procedure was established for the Regional Compliance Councils, Field Letter 193, pp. 6 and 7.

(**) Field Letters 125, 143, 148, Supplementary Memorandum No. 1. See also p. 26, supra.

(***) This was indicated as the purpose by the following quotation from Field Letter 194, p. 2: "ADJUSTMENT OF CASES FOR LESS THAN FULL RESTITUTION. It is the policy of the Compliance Division not to consider violations of labor provisions adjusted except upon the payment of back wages to employees in the full amount necessary to make restitution for past violations, in addition to securing present compliance. In some cases it is not feasible to make adjustments upon this basis. The following procedure will hereafter govern the settlement of cases involving a departure from the above policy."

(****) This is more fully discussed later, under those sections of Chapter V relating to the compromising and dropping of cases and the use of Adjustment Boards.

(*****) Office Manual, III, 4110 et seq.

(Author's note: In this chapter little has been said concerning the adjustment of trade practice violations. This was done purposely for several reasons. In the first place, standards of adjustment were never developed for trade practice cases and a far greater number of such complaints were handled by Code Authorities rather than by NRA field offices. In most cases in which they were concerned, the state offices acted only in an advisory capacity to and to supplement the activities of the Code Authorities.

On the other hand, emphasis has been laid on the labor phase of compliance because:

(a) There were many more labor complaints than trade practice complaints filed and therefore it was more necessary to develop policies and procedure for this type of case.

(b) Since labor violations fell into certain well-defined categories, whereas unfair trade practices were variegated both in number and character, it was more practical to have a set of general rules of procedure and broad policies for the former class.

(c) Closely akin to (b), is that there was no equitable or practicable way of making restitution for trade practice violations except where the code had a provision for some sort of liquidated damages. Administratively, it was impossible to determine the amount of the damage occasioned by a violation, and often difficult to ascertain who were the injured parties. Restitution for labor violations, however, was a matter of computing back wages due according to the prescribed formulae. The aggrieved parties were the employee, who was theoretically compensated, and the competitor, who gained indirectly where the competitive advantage was removed by the respondent paying back wages.)

Chapter IV - The Origin and Development of Field Offices

Section 1 - The establishment of temporary offices. During the first few months after the National Industrial Recovery Act was signed by the President on June 16, 1933, almost the entire energies of the NRA were devoted to the task of code making. Since it was soon seen that the slow process of formulating and approving codes for the various trades and industries would take many months, there was announced in July, 1933, a temporary program known as the President's Reemployment Agreement.

As a part of this NRA program there were necessary, first, an intensive national publicity campaign, and, second, a system of administration for the handling of complaints and petitions for exemption from the Agreement.

Both these objectives, it is clear, required a large field force. Because of the enormity and emergency nature of the task the NRA, through an arrangement with the Department of Commerce, utilized as the core for such organization the District Offices of the Bureau of Foreign and Domestic Commerce, which had long been engaged in activities for the promotion of and assistance to trade and industry.(*) The balance of the organization was then made up of voluntary workers and agencies, including State and District Recovery Boards, Local Compliance Boards, and various local committees.

Through conferences and oral agreement between the two Government agencies, the District Office staffs of the Bureau were loaned to NRA work. In this connection a liaison office was established in the Bureau between NRA and the District Offices. In illustration of the activity of the Bureau in the NRA program, it has been stated that up until December 2, 1933, employees of the Bureau worked 11,202 days for NRA at an estimated annual cost of $150,000.(**)

In addition, many former employees of the Bureau of Foreign and Domestic Commerce, whose services had been terminated on July 15, 1933 for economy reasons, were recalled to work directly for NRA on its payrolls.

On July 11, 1933, the District Managers were called to Washington for a two weeks period for the purpose of instruction and training in the new NRA program. It was during the latter part of this conference that the NRA campaign was announced and actual responsibility for field organizational activity was virtually placed on the District Managers for their respective districts.(***) The work of the District Offices during this period and until the creation of the Compliance Division on October 26, 1933 by Office Order 40, was almost entirely of a promotional character. It is to be remembered that the Local Compliance Boards for the handling of NRA complaints were not begun to be established until after September

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(*) France, "Role of Bureau of Foreign and Domestic Commerce in NRA Program" (December 6, 1933), pp. 1, 3. See files of N. H. Engle, Assistant Director, Bureau of Foreign and Domestic Commerce.
(**) Ibid., p. 9.
(***) Ibid., p. 3.

11, 1933, and thus the compliance phase of the work began only about one month before the District Managers were made District Compliance Directors, a week prior to Office Order 40. It was not until October and November of 1933 that most of the local Compliance Boards were authorized to operate.

Bearing in mind this history of activity of the District Offices of the Bureau during the initial months of NRA, it is not surprising to note that on October 19, 1933, the Administration, with the approval of the Secretary of Commerce, appointed the District Managers as District Compliance Directors in the field organization of twenty-six offices of the new Compliance Division which was about to be established.(*) At this time there was also issued a set of instructions to the new District Compliance Directors on the handling of code complaints. At the time of their appointment as District Compliance Directors, the District Managers were furloughed by the Bureau for three months and placed on NRA payrolls. This arrangement was intended only to be temporary pending the establishment of a permanent government code compliance system, which was finally done in January, 1934. On the latter date there was created a system of State NRA Compliance Offices and State Directors were appointed from outside the existing organization. This new system was initiated with a meeting of all State Directors in Washington the first of February, 1934. At this meeting, which lasted several days and was composed of a series of group conferences and discussions, the State Directors were informed as to the general outline of organization and policies. Specific questions with relation to compliance work were also taken up. In addition, the State Directors had been instructed in advance to bring with them memoranda of local field problems for joint discussion. While the advantages of this type of meeting are obvious, most of the value was lost because the State Directors were new to NRA compliance work and for the main inexperienced in industrial regulation.

The reasons, other than the need for a full-time government agency to adjust complaints, for the separation of NRA District Compliance Directors from the Bureau of Foreign and Domestic Commerce are summed up as follows:

"It is felt that as compliance directors the district managers should not be associated with Buforcom work and thus avoid any criticism which might be directed at these men if they continued as district office managers while acting as compliance directors."(**)

This statement took recognition of the fact that the work of the Bureau had been chiefly the promotion of trade and relations had been almost entirely with industry rather than with labor. Also, in NRA work, the Bureau offices had been active in stimulating the formation of trade associations and other business groups, and it was therefore felt that accusations of partiality might come alike from labor and

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(*) In NRA Studies Special Exhibit Work Materials #77.

(**) France, "Role of Bureau of Foreign and Domestic Commerce in NRA Program" (December 6, 1933), p. 75. See files of N. H. Engle, Assistant Director, Bureau of Foreign and Domestic Commerce.

those portions of industry not organized under these trade associations.

The importance of the influence of the Bureau in shaping the policies and procedure of the Compliance Division will be shown in succeeding sections of this and in the following chapters. It is sufficient to point out here that prior to the State Office system the field was almost entirely staffed by former Bureau employees. During the remainder of compliance history many key positions, both in the State and Regional Offices, were filled by these men.

Section 2. - Internal Organization - early development. In order to understand properly the administrative efforts of NRA it is important to know the mechanics by which it was sought to accomplish full compliance with the law. For just as the successful administration of any new and complicated set of regulations, such as the codes, must ultimately depend on public understanding and support, so also is it based on the practical aspects of application.

This naturally brings us to a consideration of the internal workings of the field offices, the primary media of contact with business, so as to view the facilities for educating employers and bringing them into conformity with the codes.

Digressing for the moment, it is important to remember what has been pointed out before, that the field was distinctly non-homogeneous. Field offices varied widely in their methods of approach to particular problems, their internal organization, and their very fundamental concept of adjustment. These variations, of course, were due primarily to differences in personalities, and in social and economic outlooks. They were also caused by the nature of the offices' daily associations with business, labor and other outside influences.

These differences in field offices were much more marked after the creation of the State Director system, probably because the District Compliance Directors had served together as District Managers of the Bureau of Foreign and Domestic Commerce, and therefore had a fairly standardized background.(*)

When the District Compliance Offices were established by Office Order No.40 (October 26, 1933),(**) their personnel consisted in a District Compliance Director, his assistant, a legal adviser (to be appointed), and clerical and stenographic help.(***) Legal advisers were appointed some two or three weeks later.(****) Shortly thereafter the larger and more important offices were allowed very slight increases in personnel, usually in conjunction with the local Compliance Boards. The appointments

(*) In spite of this heterogeneous quality, for the sake of convenience the field must be spoken of as a unit, except in particular cases.

(**) The District Compliance Directors were actually appointed on October 19, 1933 by letters from the Administrator. Instructions on adjustment were issued the same day and amplified in Liaison Circular 75 (October 20, 1933).

(***) Liaison Circular 75.

(****) Field Letter 5 (November 10, 1933).

were all on a per diem basis since the system of organization was regarded as temporary.

At this time there was no clear definition of duties either by Washington or by the field offices themselves. Generally speaking, of course, the District Compliance Directors had been charged with the responsibility of obtaining compliance with the various codes and (working in conjunction with the local Compliance Boards) with the President's Reemployment Agreement.(*)

Actually, the District Compliance Directors laid stress on public relations work, rather than adjustment. Thus, their energies and the time of their assistants, were devoted primarily to fostering relations with trade associations and other business groups, and to a lesser degree, labor organizations. They also spent considerable time in assisting the organization of local code authorities and in publicizing through the press, by radio, and by public addresses, the benefits and aims of NRA, and in attempting to stir up a fervor among business men for support of the Recovery Program.

This idea of the District Office period that NRA compliance was almost exclusively a selling campaign was a natural carry-over from the earlier feverish days of the President's Reemployment Agreement drive.

Because of the nature of this activity, and the lack of instructions from Washington, it is next to impossible to determine with any degree of accuracy the functions of the various field officials, except as broadly stated above.

There is a partial exception to this lack of definitions of duties, however. The Legal Adviser, it was fairly clear, was to examine complaints of code violations for legal sufficiency and to pass on all legal questions arising in the offices, which did not require final interpretation of codes.(**)

The assignment of responsibility to handle and adjust complaints, which was properly the primary duty of the Compliance Division, was left in a nebulous state of disposal. Adjustment of complaints was usually left to members of the clerical staff, assisted sometimes by the Legal Adviser, and the District Compliance Director or his assistant, in a sort of hodge-podge arrangement. Again, practices in different field offices varied so greatly that it is impossible to generalize with more than a fair degree of accuracy.

(*) Office Order 40; Liaison Circular 75; "Regulations for Adjustment", etc. (October 19, 1933); William H. Davis, "N.R.A. Plans for Code Compliance" (December 5, 1933).

(**) "Regulations for the Adjustment of District Compliance Directors" etc. (October 19, 1933). Office Order 53 definitely placing the authority to issue interpretations in the Industry Divisions was not issued until December 29, 1933, but it was generally understood prior to the date of that order that there was no authority in the field to issue final rulings or interpretations.

Suffice to say, that in the better field offices, which later were to play an increasingly important role in shaping general policies of adjustment and procedure, although organization was undecided, a stronger emphasis was laid on the adjustment function. Thus, a few of the Legal Advisers went beyond their regular defined duties of advising on legal questions, to delve into the actual adjustment of complaints. This was also true with a small minority of District Compliance Directors and their Assistants. This fact is important because from this class of field personnel were later drawn a number of the Labor Compliance Officers and Trade Practice Compliance Officers, and, with the inception of the Regional system in December, 1934, some members of the Regional staffs. This personnel angle is mentioned because it was probably the most important internal influence on the development of the Compliance Division.(*)

Section 5 - Development of internal organization under the State Office system.(**) Following the creation of the State Office system, discussed under Section 1, there was a marked development of the field staff. This was forecast in a statement by the National Compliance Director on December 5, 1933,(***) in which he described briefly the new organization along state lines, saying that each State Director would have a sufficient staff of assistants and adjusters to develop the facts and adjust the complaints which were filed. Unfortunately, the requisite full complement of personnel was never realized.

The staffs of the District Offices were absorbed by the new State Offices. There was therefore, little difference between the two systems at first, except in form. However, since the State Directors were practically all local men, and chosen from many walks of life, the injection of new personalities soon made the State Office system novel in fact.

The State Offices were intended to be a "permanent governmental regional adjustment system."(****) It is not surprising, therefore, to note that the plan provided for a more complete and complex organization. The District Compliance Directors became Office Managers in the old offices and equivalent positions were created in the new offices; the Legal Advisers and the clerical and stenographic staffs continued in their same capacities; and in addition, under the State Director, were added the positions of Labor Compliance Officer, Trade Practice Compliance Officer, and several field adjusters!(*****) While these latter positions

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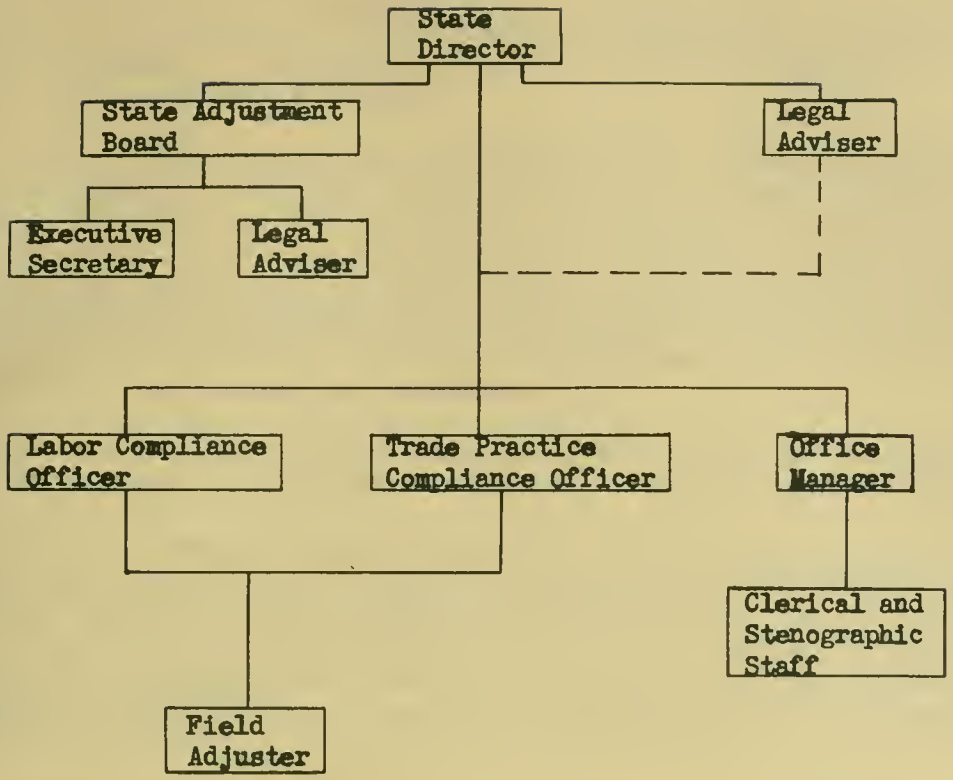
(*) Nevertheless, the salesmanship feature of compliance was always an important one. There was merely the question of placing it in its proper relationship to the adjustment of violations.

(**) The first instructions to State Directors, relative to their functions and the internal organization of the field offices, were contained in letters sent to them on their appointment by the Administration.

(***) William H. Davis, "N.R.A. Plans for Code Compliance." In NRA Studies Special Exhibits Work Materials #77.

(****) Idem

(*****) Bulletin No. 7, p. 11.



Note: Compare this chart with the organization scheme as later developed in its application (infra. pp. 59 - 62).

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were created at the beginning of the State Office system, in many instances some were not filled for several weeks and months after that, and, in the case of smaller offices, the functions of several positions were always exercised by one man.

Bulletin No. 7 marked the transition of the organic development of the Compliance Division from the District Office stage to the second period. The idea that the adjustment of complaints, as against a mere sales campaign, was a necessary ingredient of compliance, was given real impetus. In creating an enlarged staff for the field offices, Bulletin No. 7 described the functions of the various new positions in such a way as to leave little room for mere public relations work, except as incidental to the adjustment of complaints. (*)

The State Office internal organization was provided in Bulletin No. 7, which was amplified by Field Letter 69, issued February 24, 1934. (**)

The plan provided that the staff was to be headed by the State Director, who served in a dual capacity as State Director of the National Emergency Council and State NRA Compliance Director. In the latter position he was charged with the duty of obtaining compliance with all code provisions and with the administrative responsibility of the office,(***) although in actuality these functions were performed by the State Director in but few offices.

Next in general authority to the State Director was the Office Manager (whose title was changed to Executive Assistant in Field Letter 69). His duties included overseeing the general functioning of the office; handling all matters of office routine and details as to space, personnel and equipment; assisting the State Director in maintaining relations with the press and in public relations work; serving as executive secretary to the State Adjustment Board; handling all trade practice compliance matters where there was no Trade Practice Compliance Officer. (****)

(*) N.R.A. Bulletin No. 7, p. 11, "These State Directors are charged with the duty of adjusting, whenever possible, all code violations not adjusted by Industry and to that end, under these Regulations, will do everything within their power to secure compliance through education and explanation"; also, "Until --(field adjusters are appointed), the Labor Compliance Officer and the Trade Practice Compliance Officer may act as their own adjusters. The Office Manager and the Legal Adviser may also act in this capacity."

(**) On the opposite page is a chart showing the functional organization which was established.

(***) N.R.A. Bulletin No. 7, p. 11, "The State Director is responsible for all action taken by his staff under these Regulations and may make such office rules as he deems desirable for the supervision of the activities of his staff."

(****) Field Letter 69, p. 1.

The Labor Compliance Officer was charged with all matters concerning compliance with the labor provisions of the various codes, and reported directly to the State Director(*).

Although not so definitely stated, it generally understood that the Trade Practice Compliance Officer occupied a position similar to the Labor Compliance Officer, with respect to trade practice compliance matters.

Under both labor and trade practice compliance officers was a staff of Field Adjusters whose duty it was to investigate and adjust all complaints assigned to them by the Labor and Trade Practice Compliance Officers.(**)

There was also a clerical and stenographic staff, which was under the supervision of the Office Manager or Executive Assistant.

The position of the Legal Adviser with relation to the two Compliance Officers and the Office Manager was never clearly determined. Generally speaking, he was supposed to report direct to the State Director, but advised all members of the staff on legal matters. In addition to the functions of rendering advice and opinions and examining complaints,(***) his duties included the adjustment of complaints, acting (****) as legal adviser to the State Adjustment Board, (*****) and preparing all unadjusted complaints for transmittal to the National Compliance Director for further action. (******)

In addition to the regular staff, there was a State Adjustment Board, composed of an impartial chairman and equal representation of employees and employers. This body's chief function originally was to hear appeals from decisions of the State Director's staff and to determine disputed questions of fact. It acted purely in an advisory capacity to the State Director. It's members served without pay. The functions, development and uses of the State Adjustment Boards will be treated in detail later.

The members of the staff were stated by Field Letter 69 to have distinct and separate duties. The State Director was charged with determining the necessary lines of administrative authority to insure fulfillment of his responsibility of obtaining complete code compliance within his particular jurisdiction. Thus, it is seen that the original plan of organization provided for a labor compliance division, a trade practice compliance division, and an office management division, all heading up to and under the direct supervision and authority of the State Director. It should be understood that these divisions of internal organization related more to functions than personnel.

(*) Idem.
(**) Bulletin No. 7, p. 19.
(***) Supra, p. 33.
(****) Bulletin No. 7, p. 11.
(*****) Ibid., p. 16.
(******) Ibid., pp. 16, 17, providing for the procedure on unadjusted cases. It was understood that this was the function of the Legal Adviser.

The appointment of the new personnel, except the Labor Compliance Officer, was vested in the State Director, subject to the approval of the Compliance Division in Washington. (*) The Labor Compliance Officer was selected by the NRA and the U. S. Department of Labor jointly, the latter agency largely influencing the choices. Theoretically, the appointment of Field Adjusters was made by State Directors upon the advice and recommendations of the Labor Compliance Officers. (**) Actually, Field Adjusters were appointed by some State Directors without such recommendations and without regard to the qualifications of the appointees to fill the positions.

It is quickly apparent that such a situation was inherently troublesome for the Compliance Division. This first impression is justified, for there later developed out of this intangible conflict of authority decided and serious rifts between the Labor Compliance Officer and the State Director in many of the offices.

This internal disruption was heightened by a sometimes violent disagreement on adjustment policies. Since the State Directors, by virtue of their functions and general responsibilities, had little to do with the every day experience of handling complaints and making adjustments, they tended to underemphasize the importance of the restitution element.

This situation, of course, greatly hampered the efficiency of those offices in which it existed. It was partially overcome by oral instructions from NRA Field Representatives, traveling out of Washington, virtually placing the entire responsibility and actual authority for the selection of Field Adjusters in the Labor Compliance Officers. This action occurred in the late spring of 1934, just preceding or about the time of the issuance of Field Letter 125, which gave official recognition to the importance of the restitution element in adjustment. This development, then, really belongs in the beginning of the third phase of the Compliance Division's history.

It must here again be reiterated with emphasis that the metamorphosis which has been just described did not take place in all the field offices, or probably even in a majority of them. It is important to remember that in a fair proportion of the field offices the staff was more unified in its policies of procedure and adjustment, which were realistically defined. Selections of new personnel, particularly Field Adjusters, and the administrative organization reflected the balanced judgment of the entire executive staff. In contradistinction, a like number of field offices did not fall in the first-mentioned "dissension class" because

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(*) Field Letter 66 (February 20, 1934), p. 1.

(**) Letter of January 18, 1934, from Donald Renshaw, Field Liaison Officer, Compliance Division, to the various State NRA Compliance Directors, "We do not consider it advisable to appoint any Field Adjusters for your office until the Labor Compliance Officer has been assigned to you. He should be of invaluable assistance to you in helping to select proper personnel for this important phase of the work." In NRA Studies Special Exhibits Work Materials No. 85.

the Labor Compliance Officers, or other subordinate members of the staff, were either weaker in their convictions or not inclined to a progressive development of field techniques and field policies.

The rift between the Labor Compliance Officer and the State Director, however, occurred in a sufficient number of offices to rank it as an important situation since out of it came a major transformation in the internal organization of the field.

Section 4 - Later development under the State Office System. By the beginning of the summer of 1934, the Compliance Division had progressed far in its organic evolution. It had just officially taken cognizance of the changes in adjustment policy and had promulgated standards to be followed by the field in the adjustment of code violations. The experiences of NRA in compliance administration had begun to crystallize and make themselves felt in these and certain other concrete reforms.

In Washington, there was created the office of Assistant Administrator for Field Administration, whose duty it was to supervise compliance activities and to coordinate the efforts of the Compliance Division with the Industry and Litigation Divisions. (*) The system of travelling Field Representatives of the Compliance Division, to more closely supervise the field staff and to bring into more intimate relationship with the Washington staff, was developed and came into wider use. Thus, the Washington staff of the Compliance Division, as well as general headquarters of NRA to a lesser degree, came to realize the importance of the field and to lay more stress on field compliance work.

Together with these developments in Washington came changes in the field staff. Additional Field Adjuster positions were created to attempt to fill the crying need for an adequate staff for the investigation and adjustment of violations.

The new Field Representatives also undertook to re-train the staffs in the various field offices and to improve the quality of the existing personnel. Consequently, some replacements were made. This improvement of the quality and size of the field personnel occurred through the summer and fall of 1934.

In the appointment of new Field Adjusters, the Labor Compliance Officers were given major voice, although the authority to appoint personnel, in the approval of the Compliance Division in Washington, remained in the State Directors. As has been previously pointed out, there was a tendency on the part of the Field Representatives and the Field Branch of the Compliance Division to make the Labor Compliance Officers autonomous in their particular field. (**)

The emphasis on the labor compliance staffs in the organization of the field was increased by changes in the heads of the various offices. During the third period of development, from roughly June, 1934 on, due to the increased activity of the National Emergency Council, a number of State Directors severed their NRA connections to devote their entire time to their N.E.C. duties, and for other personal reasons. By November, 1934, a comparatively small number of original State Director appointees

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(*) Office Order 82 (early June, 1934); see also p. 21 supra.

(**) Under Compliance Division Memorandum 4 (December 15, 1933) matters concerning the field organization or its personnel were to be referred to the Field Section, Administrative Branch. Under Office Order 83 (April 12, 1934) the Field Section was made the Field Branch; see also Office Memorandum 180 (April 12, 1934).

remained.

In filling these vacancies the Compliance Division pursued the policy of appointing the head of the office from members of the staff. Thus, Labor Compliance Officers, Trade Practice Compliance Officers, local Executive Assistants, and, in some cases, Legal Advisers were placed in charge of the various offices as State NRA Compliance Directors, and later as State NRA Compliance Officers, with resultant changes in the remainder of the executive staff.

Since the replacement appointments were made on the recommendations of those persons in Washington who believed in emphasis on the labor compliance staffs, it was natural that this idea should be carried out in the revamping of the internal organization of the field offices by the new Directors.

Conversely, added to this factor was the decreasing relative importance of the Trade Practice Compliance Officers. With the organization of code authorities to handle trade practice violations, the functions of the State Office, as to this type of case, tended to become advisory in nature and supplementary to the code authorities' efforts.

While the positions in field offices remained virtually the same, with increases in the number of adjusters, the scheme of organization during this later period under the State Office system came to be different.

The State Director or State Compliance Officer carried the bulk of public relations and press relations work, together with general administrative responsibility. Nominally, the functions of this position did not change.

So it was also with the Executive Assistant and the Trade Practice Compliance Officer, where there was one, except that the functions of the latter came to be centered chiefly in contacts with Code Authorities.

In some offices the position of Legal Adviser was for all practical purposes abolished by the simple expedient of not filling vacancies. Legal Advisers were definitely given the task of assisting the Labor Compliance Officers in the exercise of their functions, in addition to their previous duties.

By virtue of the enlarged staff under them and the increased emphasis on this phase of the compliance organization, the Labor Compliance Officers became more executives, rather than adjustment officers. The general function, to supervise and have direct responsibility for all labor compliance activities, remained the same. However, the bulk of the Labor Compliance Officer's time was spent in supervising and planning the activities of the Field Adjusters. The actual handling of cases for adjustment necessarily was limited and restricted to "key cases" in the industry or state and cases involving determinations of compliance policy. This change infunctions, it should be borne in mind, came relatively late in the period and after the development of the idea of placing complete direct authority and responsibility for labor compliance on the Labor Compliance Officer in each particular office. In some states, there were created the positions of Assistant Labor Compliance Officer and Chief Field Adjuster, to assist in the details of supervision and direction of the Field Adjusters.

The number of Field Adjusters varied greatly according to the population and industrial importance of the state in which each office was located and the volume of work of the particular offices. The Adjusters, contrary to the earlier scheme, were under the jurisdiction and authority of the Labor Compliance Officers and consequently devoted the great majority of their time to the investigation and adjustment of labor violations. (*) At the discretion of the Labor Compliance Officer the Field Adjusters were sometimes used on trade practice cases.

On june 2, 1934, authority was given to the State Offices to station Field Adjusters at strategic points throughout the state. These Resident Field Adjusters were under the supervision and control of the Labor Compliance Officers, but of necessity were placed more on their own responsibility than the Field Adjusters stationed in the State Office itself. (**)

(*) Some Offices, however, had Trade Practice Adjusters assigned only to trade practice cases.

(**) See infra. pp. 64-65 for a further discussion.

Summing up, in this period of development, the internal organization of a field office consisted in a State Director, who was nominally in charge of all activities, his Executive Assistant, who handled office management, a Trade Practice Compliance Officer, a Legal Adviser, who was at least partially under the Labor Compliance Officer, and a Labor Compliance Officer, under whom were the Adjusters and other exclusively Labor Compliance Personnel, and who was regarded as generally on a par with the State Director in authority over labor compliance activities. (*)

This scheme of organization differed from the original plan under Bulletin No. 7, and Field Letter 69 in that more emphasis was laid on the labor phase of activities and both the authority and the responsibility for labor compliance were centered in the Labor Compliance Officer. Thus, while the type of organization in effect during this period of development was loose and not adapted to the greatest efficiency, it was, nevertheless, an improvement on the original plan and a step toward the more compact and better-balanced administrative setup that followed.

Section 5 - Final development of organization under the Regional Office system. The creation of the Regional Office system was announced in Field Letter 190, issued December 28, 1934. Among the purposes of the new Regional system, chief among which was the relief of the congestion of unadjusted cases before the National Compliance Council, was the decentralization of the Compliance Division organization with a consequent closer supervision of the field. Together with other functions and powers, the Regional Directors were "to direct and be responsible for compliance administration" and "to direct and supervise the State NRA Compliance Directors in their Regions." (**)

At the same time that the new Regional system began to operate, instructions were issued more definitely stating the standards of adjustment to be applied by the field offices. (***) Thus, by Field Letter 194 (January 18, 1935), all compromise cases were required to be submitted to the Regional Directors for their approval before adjustment. (****)

The natural result of the creation of the Regional Office system and the issuance of instructions making the standards of adjustment more inflexible, was to draw the field together and to tie it more closely into the Compliance Division organization.

(*) Because of th hazy lines of authority as indicated in the text, it is not feasible to chart the functional organization as developed during this period under the State Office System.

(**) Field Letter 190, p. 3.

(***) Field Letter 193 (January 10, 1934); supra, p. 27.

(****) Supra, p.27.

The Regional Offices soon took steps to improve the efficiency of their State Offices by introducing better methods of organization and control. The State Directors and State Compliance Officers were instructed that they were the persons to whom the Regional Offices would look for the operation of the compliance program in their states. In addition, it was again stated that no docketed labor or trade practice complaint should be closed without the approval of the Labor and Trade Practice Compliance Officers, respectively. The development of the Labor Compliance Officers' jurisdiction over the Field Adjusters was made clear, since when it became necessary to refer a trade practice case to a Field Adjuster, the case had to be referred through the Labor Compliance Officer who assigned it to the individual adjuster.

Thus, it is seen that the type of organization finally put into effect in the field offices in the last period of development was the same, with one material difference, as that evolved under the later State Office Period, from June, 1934, to January, 1935. That difference was in clearly making the head of the office the focal point for all relations between the State Offices and their respective Regions. (*)

The chart on the opposite page shows that the Executive Assistant was second in general authority to the State Compliance Officer in addition to being responsible for office management. While the Trade Practice and Labor Compliance Officers reported on their respective funtions directly to the State Compliance Officer, they were also subject to the general jurisdiction of the Executive Assistant, although the latter status was never definitely determined. Consequently, there existed in some offices a conflict between the Executive Assistant and the Labor Compliance Officer. This manifested itself according to the personalities of the individuals holding these positions in the particular offices.

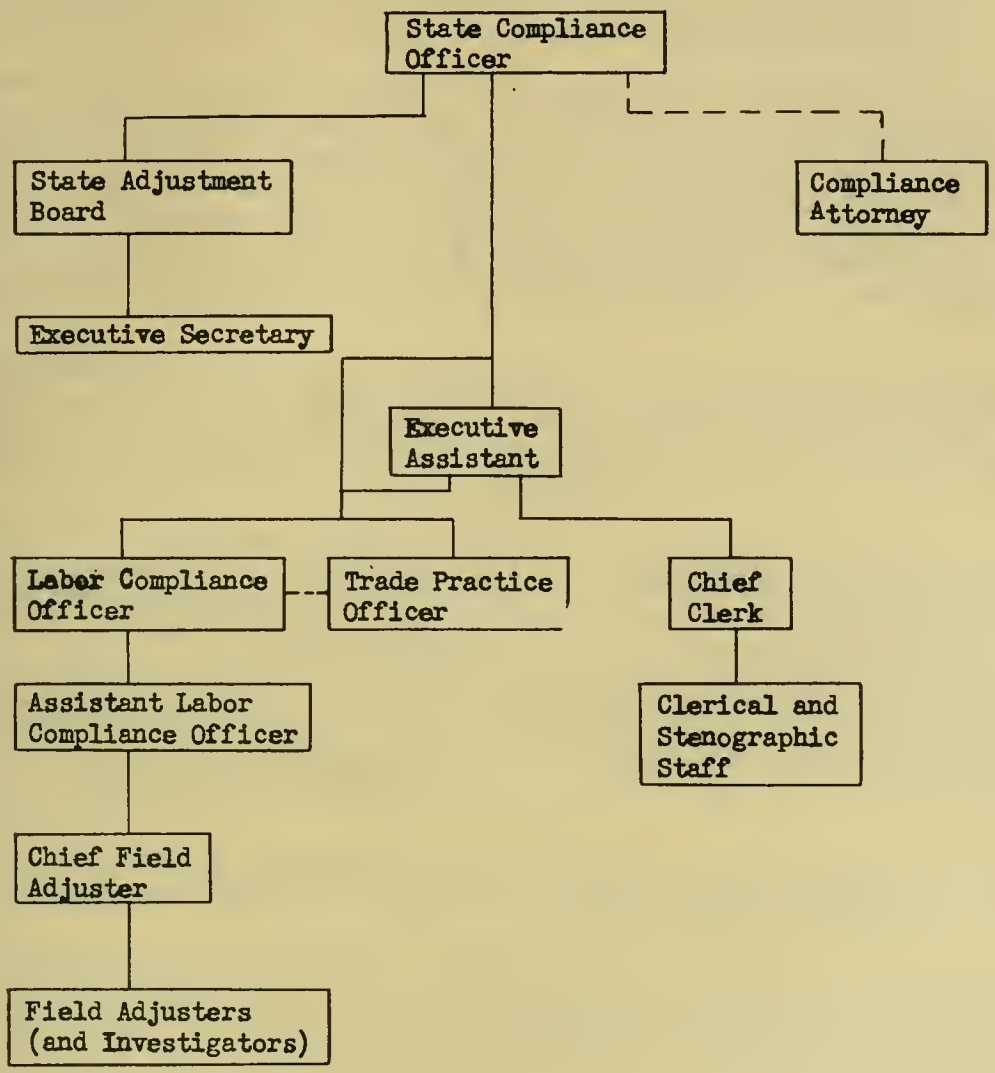
The State Adjustment Board continued to act in an advisory capacity, although its use declined after Field Letter 194 (January 18, 1935), which took away the Board's power to approve compromises.

In January, 1935, the State Legal Advisers were transferred to the Legal Division and their titles were changed to "Compliance Attorneys." (**) While continuing to advise the State Compliance Officers and State Directors on legal matters, they were subject to the supervision and authority of the Regional Attorneys of the Legal Division. At the time of this transfer, however, some of the legal personnel were retained on the Compliance Division payroll in different capacities.

The functional organization of the field, of course, differed with various offices. This was natural, because the personnel problem had not been solved. However, for purposes of illustration, it is deemed appropriate here to describe the internal structure of several of the field offices, which, it will be seen, differed only in minor details, due chiefly to variations in size and in volume of work.

(*) A chart showing this form of organization is reproduced on the opposite page. With minor variations, as described in the body of the text that follows, it is representative of the field offices.

(**) Field Letter 194.


State Compliance Officer
State Adjustment Board
Compliance Attorney
Executive Secretary
Executive Assistant
Labor Compliance Officer
Trade Practice Officer
Chief Clerk
Assistant Labor Compliance Officer
Clerical and Stenographic Staff
Chief Field Adjuster
Field Adjusters (and Investigators)

9861

The Boston, Massachusetts State Office had an executive staff consisting of the State Compliance Officer, and Executive Assistant, a Labor Compliance Officer, and a Trade Practice Compliance Officer.

The Executive Assistant was in full charge of the office force and acted as Executive Secretary of the State Adjustment Board, in addition to assisting the State Compliance Officer in his general administrative duties. Under the Executive Assistant was a stenographer-clerk who was in charge of the bulk of the stenographic and clerical staff, the remainder reporting directly to the Executive Assistant. A discussion of the mechanical details of the general staff's functions is not deemed material.

The Trade Practice Compliance Officer was in charge of all trade practice complaints and other matters closely allied with this phase of compliance. He did most of his own investigational and adjustment work and reported to the State Compliance Officer.

The Labor Compliance Officer, directly under the supervision of the State Compliance Officer, was responsible for obtaining compliance with the labor provisions of the codes. Under him was an Assistant Labor Compliance Officer who assigned complaints to the various adjusters for handling. There was also a Chief Field Adjuster, who in reality acted only as a Senior Adjuster. There were fourteen other Field Adjustors and two Investigators, who did not make final adjustments. Some Field Adjusters were assigned to particular codes, while others worked on complaints arising in any industry.

There was also a supplementary investigational staff supplied by the State Department of Labor, in cooperation with the State Office.

The Connecticut State Office executive staff consisted only of the State Compliance Officer and the Labor Compliance Officer. The functions of Executive Assistant, Trade Practice Compliance Officer, and Executive Secretary to the State Adjustment Board were all exercised by the State Compliance Officer together with his own duties.

Under the Labor Compliance Officer, who had the usual functions, were an Office Adjuster and eight Field Adjusters, one of whom was supplied by the Federal Emergency Relief Administration. There was also another Office Adjuster who handled both labor and trade practice cases. These Office Adjusters had the function of handling complaint adjustments by conferences in the State Office, as distinguished from Field Adjusters who also made investigations.

The Rhode Island State Office organization is interesting because of its uniqueness, the plan which was to have gone officially into effect on June 1, 1935, not providing for either a Labor or Trade Practice Compliance Officer.

The State Compliance Officer and the Executive Assistant supervised the general activities of the office as well as the compliance work, the Executive Assistant also acting as Executive Secretary to the State Adjustment Board.

The general office staff consisted in a Chief Clerk and an Assistant Clerk (both of whom handled details on personnel), two file clerks, two docketing clerks, two receptionists (one of whom was also a file clerk), and five stenographers (two of whom have been previously mentioned in other capacities).

Labor and trade practice complaints were adjusted by a staff of three Senior Compliance Adjusters, one of whom also acted as Field Investigator, with seven other such investigators under him. Routine correspondence on complaints was handled by two members of the clerical staff.

The internal structure of the Missouri State Office followed the same general lines as those described above, although it had a slightly fuller organization more typical of the larger offices.

The State Compliance Officer exercised general supervision over the entire staff of the office, directing and controlling all activities through a numbered series of memoranda, setting forth general office routine, office policies, assignment of duties, and general instructions. These memoranda usually resulted from weekly conferences with members of the executive staff and weekly meetings with the Field Adjusters. In addition, the bulk of the work connected with relations with other Federal and State agencies, Code Authorities, labor unions, and trade groups, as well as all contact with the Regional and Washington offices, fell on the State Compliance Officer. He also handled all matters of personnel, except routine, on the advice of a Personnel Committee composed of the Executive Assistant, the Labor Compliance Officer, the special Adjuster, the Compliance Attorney, and sometimes the Chief Field Adjuster. The actual work connected with the issuance of homeworkers' and handicapped workers' permits, with which he was charged, was delegated to the Special Adjuster. Because he had formerly served as Labor Compliance Officer and had handled the Apprentice Training program in the state, the State Compliance Officer continued to carry this function, assisted by the Special Adjuster.

The Executive Assistant was responsible for the management of the office and all matters of office routine, and supervised the general clerical and stenographic staff. He also assisted the State Compliance Officer in public relations work and acted as Trade Practice Compliance Officer.

In direct charge of the office staff was the Chief Clerk, who also handled personnel details and sorted all incoming complaints for acceptance, rejection, or transfer to another agency. Where the proper primary action was in doubt, the Chief Clerk referred the question either to the Compliance Attorney or to the Labor Compliance Officer, who had formerly served as Legal Adviser.

A member of the clerical staff, so classified because of budget restrictions, acted as Trade Practice Adjuster, reporting to the Executive Assistant.

The Labor Compliance Officer directed all labor compliance activities, including the planning of mass compliance surveys and the training, instruction and supervision of the Field Adjusters. Acting on suggestions from members of his staff, he prescribed standards and policies of inspection and adjustment to supplement the general instructions from Washington.

He supervised the work of the Field Adjusters by reviewing case files and daily reports.

The reviewing of case files and reports was also done by Special Adjuster, who acted as an Assistant Labor Compliance Officer and also as a special assistant to the State Compliance Officer, in addition to her regular functions in connection with the issuance of permits for handicapped and home workers.

The assignment of cases to and direct supervision of the Field Adjusters were delegated to the Chief Field Adjuster. Newer men were also assigned to the Two Senior Field Adjusters for supervision and training.

The twelve Field Adjusters were charged with both the investigation and adjustment of complaints, unlike the Rhode Island system, which split up these two functions. More important cases were assigned to the Chief Field Adjuster and the two Senior Field Adjusters, but there was no specialization of codes.

Cases involving adjustments which were important because of size or other factors, or containing questions of policy or difficult interpretation were referred to the Labor Compliance Officer for his personal attention.

The Compliance Attorney acted as legal adviser to the State Compliance Director, but reported to the Regional Attorney of the Legal Division. Legal matters, questions of interpretation, and the preparation of unadjusted cases for removal of the Blue Eagle and for litigation comprised his official functions. He also assisted the Labor Compliance Officer in handling cases which were likely to reach the District Attorney.

The last description of field office organization has been given in considerable detail to more cleraly bring out the machinery established in State Offices to carry out their functions. It is not to be supposed that the offices specially mentioned were other than convenient illustrations for a proper concept of the field organization.

The structures described represent those finally developed by May, 1935, By that time the field force had been improved from, in most offices, the original top-heavy organization to a fairly well-balanced, smoothly operating staff. Daily experience in handling cases, and the better organization methods which were evolved had begun to combine and solve many of the problems of inadequate personnel and of compliance procedure. Counterbalanced against this was the ever-increasingly apparent weak legal basis for the NRA program, which also served as a potent influence on efforts to increase the efficiency of the compliance organization.

Chapter V - Compliance Procedure in Field Offices

Section I - Complaints, the basis of procedure. The original "Regulations for the Adjustment by District Compliance Directors of Complaints of Code Violations" established the procedure to be followed by the field in carrying out its functions. Under this procedure, and that promulgated for the Local Compliance Boards in handling the President's Reemployment Agreement, (*) the sole basis for activity in obtaining compliance was the filing of complaints by employees, competitors or other interested parties charging the particular respondent with committing a violation of a code or the PRA.

(*) Bulletin No. 5, "Regulations on Procedure for Local NRA Compliance Boards" (September 12, 1933), pp. 2-6, inclusive. The procedure provided briefly was as follows: When a complaint of violation was received, it was examined for legal sufficiency by the legal number of the Board. In the event the complaint stated a prima facie violation, notice that it had been filed was given the employer. The notice might be either written, telephonic or personal, and was supposed to assume compliance and that the complaint was due to a misunderstanding. Together with the notice, the respondent was furnished with copies of the PRA and official explanatory releases. The provisions of the PRA were then explained to the employer by a member or a representative of the Board in an informal personal interview, and the respondent was allowed to explain the facts alleged in the complaint and to make any necessary adjustments in working conditions.

In the event the complaint was not adjusted by the foregoing procedure, the respondent was given an opportunity to appear before the Board and state his case. Notice of opportunity to be heard before the Board was not in a prescribed form but had to be sent on official NRA stationery in a franked envelope, and was to include copies of the PRA and official explanatory releases, unless previously furnished.

Hearings were to be conducted by the Board on an informal tone, for the purpose of educating the employer and influencing him to comply voluntarily. The Boards were instructed that they had no power to compel the attendance of the employer and witnesses, the production of books and papers, or the giving of testimony. Questions were to be confined to the single purpose of determining the validity of the complaint, and were to be used chiefly to aid the respondent in making his voluntary statement. If the respondent refused to answer a material question it was explained to him that such was contrary to the spirit of the Agreement, and such refusals were noted by the Board in making its report to NRA.

The Board then decided by majority vote whether or not the complaint was valied. Where no violation was found the case was dropped. Where a violation was found, the employer was given an opportunity to rectify conditions. In either event, whether the complaint was adjusted or rejected, the respondent was given a Letter of Compliance

(Footnote (*) continued on next page)

(Footnote (*) continued)

which he might display near his insignia.

Where the respondent refused to adjust, the Board forwarded a report to NRA through the Secretary of the District Recovery Board, signed by all members, with their votes indicated, which included: the original complaint; a signed certificate by the legal member or other representative that the procedure outlined had been followed; a summary of the employer's statement; any additional pertinent facts; a recommendation for further action.

Progress reports were made from time to time to the Secretary of the District Recovery Board.

All complaints had to be in writing and signed by the complaining party. The Boards' jurisdiction extended to all PRA complaints against employers in their particular communities.

Two cardinal rules of procedure were laid down: (1) both the fact that a complaint had been filed against an employer and the complainant's identity were to be kept confidential; (2) the Board was not an enforcement agency in any sense of the word, but was to gain compliance through education, explanation, and conciliation.

The Board had no general investigational or inquisitorial functions, but to the contrary, was instructed not to use its representatives as investigation agents (p. 10).

Second offenders, where the action appeared to be wilful, were to be given no opportunity to adjust complaints.

(Note the similarity between the above described procedure and that employed by District Compliance Offices under the October 19 Regulations and by the State Offices under Bulletin No. 7, which is discussed in the body of the text that follows. This is made especially interesting by the following quotation from Bulletin No 5, p. 4, which brings out the differing bases of the PRA and the codes," - - - - the President's Reemployment Agreement is not a statute to be enforced by lay but a voluntary individual covenant.")

Under the procedure created, complaints of code violations had to be in writing, preferably on the officially prescribed form. (*) The instructions also stated that where possible, complaints should be sworn to before a notary or witnessed by at least one person familiar with the facts. However, this last was never followed extensively by the field offices because, for the most part, complaining employees were financially unable to pay notaries' fees and fear of their identities as complainants becoming known precluded the practicability of requiring witnesses. Likewise, many complainants were relatively uneducated and unable to cope with any technical requirements attached to the filing of complaints.

The District Offices were given jurisdiction over all complaints charging violations of approved codes by employers situated within their respective districts, (**) except where a code authority for the particular industry had been organized and authorized to handle the type of complaint filed.

When a complaint was received, it was docketed and examined by the Legal Adviser to determine whether or not the facts alleged therein, if true, were sufficient to state a violation. If the finding was in the negative the complaint was rejected and closed and the complainant so notified, together with the reasons for holding it invalid. (***) However, if the complaint was determined to state a prima facie case of violation, it was accepted and put through a regular procedure, described below. (****)

It is important to note here the emphasis which was placed on legal sufficiency, form, and a set procedure, since the tendency of the field was to interpret these instructions literally. This emphasis on form was not without its purpose. The field offices were very much understaffed, and even the limited personnel was largely untrained for the work, so that some device was necessary to conserve compliance facilities by eliminating groundless and crank complaints. However, the placing of formal requirements proved to be a two-edged sword, for many really bad cases of non-compliance went untouched, only to arise and plague the field offices at a later date.

In illustration of this was the manner of treatment of anonymous complaints. As pointed out in the footnote beginning on the first page of this chapter, the instructions to Local Compliance Boards handling the PRA required all complaints to be in writing and singed by the complainant. (*****) This was changed in the instructions to District Compliance Directors to the rule that anonymous complaints might be acted on at the discretion of the Directors. (******) In practice this resulted in the majority of such complaints being rejected, since the District Offices were looking for every possible way to lighten their

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(*) "Regulations for the Adjustment" etc. (October 19, 1933), p. 1

(**) "Regulations for the Adjustment," etc., p. 1.

(***) Ibid, p. 1

(****) Infra, pp. 52-53.

(*****) Office Manual, V-B-22, section 1, paragraph 2.

(******) "Regulations for the Adjustment" etc., p. 1.

own loads so that they could operate with some degree of efficiency. Although this treatment of anonymous complaints was dictated by immediate necessity, it later was proved to have been an undesirable method of approach. While logic concluded that if a complaint were well-grounded and made in good faith the complainant would sign his name, experience showed that many complaints were filed anonymously and many violations went unreported because the employees were afraid that the signing of their names on a complaint form meant probable discharge, or at least discrimination on the part of the employer. (*)

However, before going further into the gradual modification of the complaints basis of compliance activities, it is well to examine into the procedure created for the handling of code complaints once they had been accepted by the Legal Advisers.

It was originally provided that a complaint valid on its face should take one of two courses of action. If the Code Authority had been authorized to handle the particular type of complaint, a copy was referred to the authorized agency for adjustment within a specified time and the parties were so notified. (**) If within the time specified the case was not reported back as adjusted, the District Compliance Director proceeded to treat it according to the second course of action. Where the Code Authority made a report to the District Compliance Director within the time limit, from which it appeared a satisfactory adjustment of the complaint had been made, the case was filed as adjusted. (***)

(*) This fact was recognized, at least in part, at an early date. Liaison Circular 64 (October 6, 1933), paragraph 3, quoted a memorandum purportedly from the Compliance Division relative to instructions to Local Compliance Boards, which read as follows: "The instructions in Bulletin No. 5 state that 'all complaints should be in writing and signed by the person making the complaint.' This is intended to protect the Compliance Board from following up malicious and anonymous complaints.

"If a Board wishes to receive anonymous complaints, it may do so - - -."

Note that this memorandum was written some three weeks before the Compliance Division was officially created by Office Order No. 40.

(**) "Regulations for the Adjustment" etc., p. 1

(***) "Regulations for the Adjustment" etc., p. 1

If the District Compliance Director had not been specifically instructed to refer the particular type of complaint to a Code Authority, it was handled in the following manner. (*) A letter of acknowledgment was sent the complainant, and the respondent was informed of the nature of the complaint, was furnished a copy of the code and an explanation of pertinent provisions, and was invited to state his side of the case. (**)

In the event the first letter to the respondent failed to evoke a response, or the reply was unsatisfactory, a second letter was sent (***) inviting the employer to the office for a personal interview. If this method proved fruitless of adjustment, a form letter was sent informing the respondent that the case would be sent to the National Compliance Director if satisfactory evidence of compliance were not furnished in a stated number of days. Another letter was then sent notifying the respondent the case was being forwarded to Washington. After allowing sufficient time for a reply, the file was forwarded to the National Compliance Director for further action. (****)

District Compliance Directors were instructed to treat all complaints confidentially, because of the danger of the complainant's discharge on one hand, and the disastrous effect of adverse public opinion on a respondent's business on the other hand. (*****)

Likewise, it was emphasized that the field officers were not enforcement agents but were to attain compliance through education, explanation and adjustment. (******) The enforcement arms of the Government were specified in the Act as being the Department of Justice and the Federal Trade Commission, (*******) and cases went to these two agencies through the National Compliance Director and the National Compliance Board. (********)

The treatment of second offenders was not mentioned in the "Regulations," but in Liaison Circular 75 the District Compliance Directors were told only to substantiate the facts in these cases, where they

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(*) In NRA Studies Special Exhibits Work Material #77.

(**) "Regulations for the Adjustment" etc., pp. 2, 3.

(***) See note (*) above

(****) "Regulations for the Adjustment" etc., pp. 2 and 3.

(*****) "Regulations for the Adjustment" etc., p. 3.

(******) Ibid, p. 3; Liaison Circular 75, p. 2.

(*******) NIRA, Title I, Section 3, paragraphs (b), (c), and (f); see also Chapter III, note (3), p. 16.

(********) Office Order 40.

felt the violations were wilful, and to give no opportunity to the respondent to adjust. (*)

This procedure contained no place for field interviews or real investigation. Nor were the field offices equipped to experiment in this direction. (**) It is little wonder, therefore, that small improvement, except in isolated offices, was made in compliance procedure during the early days. The procedure which was created was so ill-adapted to practical use, the facilities provided for the field so inadequate, that the immediate value of the field offices as real compliance agencies was almost nil during the earliest stage. Their use came more as experimental stations for the improvement of procedure and organization and the development of policies, and as agencies for educating industry to the values and benefits of NRA, which did not make itself felt until a later date. Nor is this a criticism of the method of approach to the gigantic organization problem or of field offices as a class. As has been pointed out in connection with the evolution of an adjustment policy, (***) a workable compliance system can only be developed successfully after actual experience in code Administration. It was unfortunate that much time was lost in the emergency job of obtaining compliance because such experience was lacking, or if it were available from other similar systems of industrial regulation, because its lessons were not utilized.

On January 22, 1934, there was issued NRA Bulletin No. 7, "Manual for the Adjustment of Complaints by State Directors and Code Authorities." which modified and expanded on the previous procedure. Just about a week prior to the issuance of this "Manual" the State Directors were appointed and the Compliance Division's field organization was changed from a system of twenty-six District Offices, headed by the former District Managers of the Bureau of Foreign and Domestic Commerce, to one of forty-eight, and later fifty-four, State Offices headed by the new State NRA Compliance Directors. (****)

This transformation in organization and procedure reflected to some degree the sad experiences of the District Offices resulting from inadequate, untrained staffs and an inflexible, too limited procedure.

The new procedure was broader, and contemplated some use of Field Adjusters, but still remained more or less inflexible and contained several objectionable features from the standpoint of practical application.

(*) Liaison Circular 75, p. 2.

(**) Supra, Chapter IV, section 2, "Internal organization - early development" (of field offices).

(***) Chapter III, "The Administrative Settlement of Code Violations," p. 24.

(****) Chapter IV, "The Origin and Development of Field Offices," supra.

The underlying theory of all compliance procedure was the speedy elimination, by adjustment, of such noncompliance as was due to misunderstanding, and the prompt prosecution of all cases of wilful noncompliance. (*) Bearing this in mind it is interesting to note the changes brought about in Bulletin No. 7.

At this point there should be recalled the history of the development of the definition and policy of adjustment and the internal organization of the field offices, both of which have been discussed in previous chapters.

A single procedure was established ostensibly for all types of cases. However, the organization of the offices with separate Compliance Officers for labor and trade practice, and the application of the idea of industrial self-government (**) chiefly to trade practice cases, may be said to have split up this single system, in reality, into two separate procedures which overlapped to a certain degree in complaints arising under individual codes.

This brings us to a consideration of the definition of the terms employed to prescribe the limits of each division of procedure. Complaints which dealt with violations of the labor provisions of the codes, i.e., the regulations concerning minimum wages, maximum hours, homework, and other terms and conditions of employment, including the prohibition of child labor, were designated as "labor complaints." Conversely, "trade practice complaints" were defined to include those cases involving violations of all other provisions, such as, production control, cost determination, regulation of trade terms, and other prescribed rules of conduct of members of industry among themselves. This last class also included provisions for the administration of the codes by the particular industries. (***)

(*) Bulletin No. 7, p. 7.

(**) Bulletin No. 7, p. 3 stated the purpose of the Compliance Division to be to fill in the gaps of industrial self-government, which was the ultimate aim to be accomplished. Thus (continuing on pp. 5 and 6) NRA would "act for an Industry while the Industry is organizing to handle compliance problems for itself; or where an Industry in a certain territory has no Industrial Adjustment Agencies; or where an Industry, though organized to handle trade practice complaints, has no machinery to handle labor complaints; or where the Industry fails to carry through in its efforts to adjust a complaint; or where for any other reason it is necessary for the governmental rather than the industrial system to act."

(***) Bulletin No. 7 p. 5.

The definition of a third class of complaints, "labor disputes," is not germane to this discussion because they were early removed from the jurisdiction of NRA and placed under the National Labor Board or other special agencies. (*)

Under Bulletin No. 7, complaints had to be in writing, preferably on the NRA complaint form, but were not required to be notarized or witnessed. Anonymous complaints might be acted upon at the discretion of the State Director. (**)

Complaints were routed, according to their nature, to the Labor Compliance and Trade Practice Compliance Officers, respectively. At this point comes an essential departure from the original procedure. A competitor making a labor complaint against another employer might elect to have it treated as a trade practice complaint, and it was thereafter to go through the procedure for the latter type of case. It would thus be referred to a Code Authority authorized to handle trade practice, although not authorized to handle labor violations. (***)

If a Code Authority (****) existed in the Industry and was authorized to handle the particular type of complaint in the first instance, the original complaint was referred to it without further action by the State Office, unless it appeared from the face or substance of the complaint that it was purposely filed with the State Director. (*****) A complainant always had the right to file a complaint with the NRA, rather than with an authorized Code Authority, in order to protect his or the public interest. (******)

(*) Ibid, p. 12.

(**) Bulletin No. 7, p. 11.

(***) Ibid, p. 12.

(****) The term "Code Authority" is used herein in order not to confuse the reader, although the correct title perhaps should be, "Industrial Adjustment Agency," which is the name given by Bulletin No. 7, p. 4 to an agency of an industry for obtaining compliance.

(*****) Bulletin No. 7, p. 12.

(******) Bulletin No. 7. This right, however, meant little because jurisdiction over the approval and appointment, as well as the removal, of Code Authority members and agents, together with their authorization to handle complaints, was vested in the Division and Deputy Administrators, rather than in the Compliance Division.

This procedure was much more characteristic of trade practice cases than of labor complaints. While after June, 1934 complaints referred to Code Authorities in the first instance were not docketed by the State Offices and hence no complete figures on the number of cases so referred are available, general experience showed that the preponderant majority of such complaints dealt with trade practice violations. In fact 469 Code Authorities were authorized to handle trade practice complaints as of March 25, 1935, while but 21 were given jurisdiction over labor complaints.

Complaints which came under the initial jurisdiction of the State Directors were then examined for legal sufficiency, all doubtful questions being referred to the Legal Advisers. This examination did not differ from that provided in the original procedure, except that where a complaint indicated a code provision might have been violated, but failed to state sufficient facts, instead of being rejected the complainant was requested to furnish the necessary additional information. (*)

Where a Code Authority had been authorized to handle complaints on reference (usually labor), a digest of the allegations was referred to that body for adjustment within a stipulated period not to exceed two weeks, and the parties were so notified. If no report was made within the time specified a Progress Report was requested by return mail. If no satisfactory reply was then received the State Director advised the Code Authority he would proceed to adjust the case on the assumption it had been unable to do so, unless immediate word was received to the contrary. Sufficient time for a reply was then allowed to elapse before action was actually started. If the complaint was reported back to the State Director as unadjusted, it was then put through a second course of procedure described below. On the other hand, if the Code Authority reported the case as adjusted, the State Office closed the case and so notified the complainant. (**)

The difficulty with this arrangement was that, since the Code Authorities were not under the full supervision and control of the field offices or even the Compliance Division in Washington, their policies of adjustment and procedure natrually were different. An alarming number of cases had to be re-handled after being reported back to the State Offices as adjusted. The purpose of the plan was probably to train the Code Authorities to be in a position to handle labor complaints in the first instance. (***)

(*) Bulletin No. 7, p. 13.

(**) Bulletin No. 7, pp. 13 - 14.

(***) Ibid., p. 14, "The State Director will keep a record of all complaints sent to Industrial Adjustment Agencies on reference and when he believes that any such Agency is qualified to handle a particular type of complaint in the first instance he will make such a recommendation to the National Compliance Director."

The bulk of complaints filed in State Offices, and not immediately transmitted in toto to another agency, were handled by them without reference to Code Authorities. The following procedure relating to cases handled directly by State Offices, (*) therefore, will form the center of the remainder of this discussion on compliance procedure in the field.

The initial steps were virtually the same as provided in the original "Regulations" issued to District Compliance Directors on October 19, 1933. The respondent was informed of the nature of the complaint; the applicable part of the code was explained to him; he was asked for a statement of his position; and he was furnished with copies of the code and a printed statement entitled, "Information for Persons Charged with Violation of an NRA Code," which set forth in simple language a brief outline of the procedure and the respondent's rights. If no reply was received in a reasonable time, a duplicate letter with enclosures was sent to the respondent by registered mail.

If the respondent admitted the violation but furnished satisfactory evidence of present compliance, willingness to comply in the future, and equitable restitution (**) for past violations, the case was considered as adjusted and the parties so notified.

In case the respondent denied the facts, or admitted the facts and denied they constituted a violation, or failed to satisfy the Compliance Officer that an adjustment had been made, he was invited to be present at an office interview. If this method were not feasible, or if it failed to produce an adjustment, a Field Adjuster was sometimes sent to visit the respondent. This tardy use of the Field Adjuster indicates that investigations in the field were of secondary importance in developing cases, an unsatisfactory approach dictated largely by budgetary considerations which in turn was due to the philosophy which prevailed at the time (early 1934) that most Code Authorities would in due course take over the handling of compliance in their respective trades and industries.

If the Field Adjuster's report showed no violation, the complainant was so notified. If no further word was received from the complainant within a reasonable time (usually ten days to two weeks) the case was filed as adjusted. Where the Field Adjuster's report showed a willingness on the part of the respondent to comply and to make equitable restitution, the case was closed on receipt of evidence that that had been done.

Unadjusted cases of violations were forwarded to the National Compliance Director in the same manner, and after the three warning letters to the respondent, as specified in the original procedure under the "Regulations for the Adjustment by District Compliance Directors," etc.

(*) The procedure described in the text was contained in Bulletin No. 7, pp. 14 - 18, inclusive.

(**) See Chapter III, section 6, "Evolution of an adjustment policy," supra.

Bulletin No. 7 further provided that in case either the complainant or respondent were dissatisfied with the decision of the Compliance Officer, he should be afforded an interview with the State Director. If he were still dissatisfied, he had the right to appeal the case to the State Adjustment Board, which made its findings in the form of a recommendation to the State Director.

All complaints had to be treated confidentially as to both parties. (*) In the event an interpretation of the code were needed to proceed with a case, a request for a ruling had to be made through the Washington office to the proper Industry Division. (**) There was no power to continue action on the complaint until such interpretation were issued, sometimes months later.

It is apparent to even the casual observer that this system of procedure was much too cumbersome to allow efficient operation of the field. Bulletin No. 7 was so phrased as practically to preclude any departures from it.

The whole system was fraught with delays and opportunities to the respondents to frustrate the compliance program. Cases usually developed into correspondence battles, while the compliance situation in the industry might be rapidly deteriorating without any real efforts to check it. The provision for the use of Field Adjusters was a step in the right direction, but by the time the case had reached that stage much of the damage caused by the barrage of letters had been done. This all resulted in a great deal of wasted effort and time, when by the emergency nature of the job and the inadequacy of facilities to do the work, every ounce of energy and every minute was precious.

The formality and inflexibility of the procedure, making the filing of a complaint the sole basis for compliance activities, combined with the limited facilities of the field to cause a tendency to restrict adjustments to the individual complainant and to accept in lieu of an investigation a statement or affidavit from the respondent denying the facts or claiming the required adjustment had been made. This last was the product of necessity, since any desires to investigate a complaint properly were successfully stalemated by the absence of a sufficient staff for this purpose and the set procedure provided, which did not allow for a free use of investigators. Consequently, without varying from the prescribed line of action it was virtually impossible to educate employers sufficiently to lay a firm foundation for healthy conditions of compliance, or even to bring about momentary present conformity and to obtain restitution for past violations.

Bear in mind that the field offices were under constant, terrific pressure from complainants, Code Authorities, business men, labor and trade groups, and Washington to handle complaints and get them off the books. In some of the weaker offices this combination of circumstances served to bastardize their efforts to such an extent that they sought

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(*) Bulletin No. 7, p. 7.

(**) Ibid, p. 8.

to close cases by all sorts of devious reasonings and the invocation of technicalities. At this time there was little or no stress laid on wage restitutions. Consequently, the complaining employee was sometimes regarded as a disloyal "informer" and was required to fully substantiate his charges before they would be recognized.

Fortunately, however, this intolerable situation so revolted the larger number of field offices that they threw off, bit by bit, the hampering restrictions of the complaints plan of procedure. Consequently, during the late spring of 1934, coincidentally with the development of adjustment policies and staff organization, these field offices began to cast about for and to find improvements in procedure, which finally came to be passed on to the remainder of the field through the medium of Field Letter 125 and the travelling Field Representatives.

Before passing on to a discussion of these departures from the procedure, there should be noted two shortcuts which were provided, in order to take care of unusual cases requiring speedy action.

Bulletin No. 7 provided that whenever the State Director was convinced that a complaint conclusively set forth a violation, which the respondent showed no disposition to correct or adjust, then the State Director might immediately refer the entire record to the National Compliance Director without following the regular procedure. (*) While this looked very good on paper, it had little effect in alleviating the situation. In the first place, it applied only to unusual cases and did not vary the regular procedure as to the great bulk of the complaints received. Moreover, this provision for a shortcut erroneously presupposed an adequate investigating staff to immediately prepare the evidence for the file, since obviously Bulletin No. 7 could not mean the complaint was to be referred to the National Compliance Director without any investigation. Aside from these two difficulties, even though a case were properly prepared and transmitted, it bore a likely chance of not being acted on without delay and possibly of being later returned to the State Office for further investigation or attempts at adjustment. The lack of a clear policy of action in Washington, the mechanical difficulties of advancing a complaint to the stage of Blue Eagle removal and reference to the enforcement agencies, and the even greater improbability of the case being promptly and effectively litigated, all combined to complete the task of turning this well-meant short-cut of procedure into a mere paper plan.

(*) Bulletin No. 7, p. 17.

Of more value was Administrative Order X-14, issued April 6, 1934, which amended the provision in Bulletin No. 7 just mentioned, by allowing the State Directors to refer cases direct to U. W. Attorneys, rather than to the National Compliance Director. (*) At the time of the reference, the respondent was notified and a transcript in triplicate was sent to the Control Section of the Compliance Division in Washington.

This new power was exercised in varying degrees by different offices, but was generally found to be of practical use. It eliminated to some extent the difficulties of mechanical delay in Washington and the absence of a definite plan of action. It was the first major step in the decentralization of the Compliance Division, and therefore of prime importance.

(*) This constituted Amendment 1 to Bulletin No. 7, Order X-14 also contained Amendment 2, granting a similar power to code authorities, and Amendment 3, providing that cases to be referred to the U. S. Attorneys under X-14 might be first submitted to the State Adjustment Boards for advice and recommendations. The power granted State Directors by this order was to all intents and purposes revoked after the creation of the Regional Office system, by Field Letter 196 (February 2, 1935).

Incidental to the improvement in procedure as to unadjusted cases, X-14 had the practical aspect of placing the State Offices in direct contact with the various District Attorneys. Through this medium the field added to its experience in the proper investigation and preparation of cases intended for action by the Department of Justice. But, through these contacts also there was brought home to the State Office personnel with increasing force the constitutional weaknesses and the legal difficulties involved in the whole compliance program.

Moreover, the amended procedure of X-14, by its very terms, was limited to a small proportion of the cases handled. The vast majority was still subject to the regular procedure laid down in Bulletin No. 7.

Having considered in detail the plan of procedure on the basis of complaints, it is interesting to recall the underlying theory of compliance procedure, expressed at the beginning of this discussion on Bulletin No. 7, namely.

> " _ _ _ _ the speedy elimination, by adjustment, of such noncompliance as is due to misunderstanding, and the prompt prosecution of all cases of wilful noncompliance." (*)

This purpose failed of accomplishment because of three major reasons: a cumbersome, inflexible procedure, based solely on the passive policy of waiting for complaints to be filed and for unhealthy situations to become so aggrevated as finally to be reported; a lack of an adequately trained and sufficiently large field adjustment staff to operate really successfully under any plan of procedure; and the inherent absence of a sound legal basis for proceeding, concerning the improvement of which little was ever done to facilitate the final decision of the Judiciary so that the basis might either be firmly established or discarded for a constitutional one. In connection with the last basis of failure, the weak-kneed and vacillating enforcement policy grew finally to be looked upon by industry, labor and the public as a sufficient proof that the Administration was acting in bad faith.

The field offices, and those members of the Washington staff coming into more or less direct contact with field problems, strained every effort to eliminate the first cause by developing and adopting on their own initiative improvements and modifications of the established procedure. These procedure developments did much toward putting the Compliance Division on a sound operating basis. However, it was manifestly beyond their power to remove the second and third causes, both of which were fundamental problems in compliance administration.

Section 2 - Development of a new compliance procedure. As experience grew in the handling of cases, gradual changes were made in the procedure for action on complaints. As these changes became established in practice they were usually made known to the field as a whole in the form of instructions in Field Letters.

(*) See Note p. 55 supra.

Thus, in Field Letter 48 (January 24, 1934) experience with the handling of anonymous complaints reflected itself in the following clarification of Bulletin No. 7:

> "Anonymous complaints will be subjected to a more searching analysis before they are acted upon than will signed complaints. If, however, after close examination an anonymous complaint appears on its face to be genuine and to state a code violation it should be handled as any other complaint." (*)

The field staff soon learned the value of thoroughly investigating and fully adjusting a case. Adjustment depended to a large measure on investigation. If the activity of the office was restricted to a single employee who had filed a complaint, there was likely to be later complaints by other employees, which would necessitate the retracing of steps. This was clearly an inefficient use of facilities. Further, it tended to create resentment on the part of the employer at being supposedly singled out for persecution. Then also, under this method violations tended to accumulate so that when the complaint reached the adjustment stage back wage restitutions were sometimes large and burdensome. This method also had the additional disadvantage of not lending itself to a program of educating employers so as to anticipate future cases of noncompliance.

Accordingly, it became the practice, as the use of Field Adjusters increased, to investigate the entire payroll, so as to discover all the violations which might exist. The various offices grew to require a complete adjustment of back wages due all employees. This widened scope of investigation and adjustment helped to alleviate some of the evils of the complaints system by removing the necessity for more than one investigation, except in particularly difficult cases and where the employers were persistent violators, and by furnishing an effective medium for educating the employers to bring their operations into continued compliance. This new procedure was also characterized by the placing of more emphasis on the use of Field Adjusters.

It was also found necessary to make investigations on what appeared to be bona fide rumors and well-grounded suspicions. This was brought about by the strong insistence of respondents that their competitors be made to conform also and by the realization that a permanent compliance program must be based on a thorough educational program among members of industry and the protection of the complying business men from his competitor who violated the code. This was the germ of a new idea of operation known as "mass compliance", (**) that is, the direction of com-

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(*) Field Letter 48, p. 1.

(**) Discussed in detail below, Part III, Chapter VII, as a solution to the problems arising from the method of handling labor complaints. While mass compliance is spoken of here as a new idea, it found ample precedent in the administrative efforts of the State Labor Departments, many of which used the inspection system in enforcing labor laws, (U.S. Dept. of Labor, Women's Bureau Bulletin 61, pp. 286-289, 307-308) and in the Trade Practice Conference Procedure in vogue with the Federal Trade Commission, (Annual Report of Federal Trade Commission, 1932, pp. 51-54).

pliance activities against a group as a self-initiated project, rather than a single proceeding against one employer on the basis of a complaint filed by some third party.

In addition to mass compliance activities, which were usually in the form of a survey, another variation from the complaints plan was observable in isolated investigations, not connected with a survey or planned project, and originating without the formal filing of complaints.

Thus, there might come to the attention of the field office a rumor that a certain employer was in violation, or the office might feel strongly from its general knowledge of industry conditions that a condition of noncompliance existed. In such cases, the appropriate Compliance Officer caused investigations to be made by Field Adjusters, even though no formal complaint had ever been filed. The procedure followed in adjusting violations found by these methods was the same as that used where action was the result of complaints being filed.

The above described faults of the complaints system and the correctional developments evolved are more applicable to labor compliance than to the trade practice phase. By its very nature the letter type of violation was more susceptible to treatment on a complaint basis. There were wide variations in individual cases, unlike labor violations, which fell in certain fairly well-defined classes. Complaints were usually controversies between the respondent and particular competitors, while noncompliance with labor provisions affected the total relations of the employer with his workers and tended to cause a general disturbance of the labor standards of the industry.

An interesting sidelight on the decreasing emphasis on the strict complaints procedure at this juncture is found in instructions to the field regarding so-called "multiple complaints." (*) This term was defined to include situations where more than one complaint was filed against the same employer charging the same general violation, i.e. failure to pay the minimum wage to pieceworkers, etc. Such "multiple complaints," under the instructions, were to be bound together in one file and docketed as a single case.

Immediately following this instruction on "multiple complaints," the experiences of the field with the complaints plan of procedure, and the modifications of the system mentioned above, were crystallized and a definite break was made away from the strict complaints basis by the issuance of Field Letter 125. As has been mentioned before, Field Letter 125 undertook to establish a complete, new framework for compliance activities.

The charged procedure thus created recognized the need to discard the complaints basis, and recommended strongly the use of office complaints to initiate activities. (**) These office complaints differed

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(*) Field Letter 119 (June 6, 1934), p. 3

(**) Field Letter 125, pp. 9-10.

from the earlier conception of complaints, in that the latter were filed by third persons presumably having a first-hand knowledge of the violations alleged, while the former class of complaints originated with members of the compliance staff and were based on hearsay, rumors, and suspicion. While the use of office complaints was manifestly open to abuse by over-zealous members of the staff, sufficient safeguard existed in the practical limitations of the investigational facilities of the various offices.

Among the occasions where the use of office complaints was suggested were: where an employee reported a violation but refused to sign a complaint for fear of discharge; where a complaint had been rejected but the office considered the situation alleged should be investigated; where the complaint having been substantiated the adjuster believed that violations probably existed in other establishments under the same management; where repeated rumors existed as to violations in an establishment, industry, or locality; where the employer seeking information indicated the existence of a violation. (*)

The grafting of this new type of complaint on the old procedure served as sufficient indorsement of mass compliance. The new theory of operation continued to expand with practice and the number of its adherents grew larger, so that by the time the Regional Offices began to function in January, 1935, its use as a method of approach to the solution of compliance problems had attained fairly wide popularity and was well-established among the various field offices.

Closely allied with this departure from the complaints basis was a growing emphasis on the use of Field Adjusters. The value of this type of personnel was recognized by the National Compliance Board as early as December 4, 1933. The minutes of the nineteenth meeting, held on that date, contain the following statement:

> "Mr. Posner once more raised the question of procedure where employees were discharged for entering complaints against their employers. Dr. Altmeyer, (later Second Assistant Secretary of Labor and at one time Chief of the Compliance Division - Author's note) urged that field representatives were necessary for this type of work. He added that considerable tact and labor experience are necessary."

In May and early June, 1934 the Compliance Division began to appoint "Resident Field Adjusters", who were stationed at various strategic points outside the cities in which the State Offices were located. While these Resident Field Adjusters were attached to the various State Directors' staffs, it was contemplated that they should exercise semi-executive functions, in addition to the regular duties of Field Adjusters. Thus, they were generally given a comparitively free hand in the planning of their own compliance activities and in engaging in public relations

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(*) See Note p.64, supra.

work. Because of the physical distance between their official stations and the State Offices there was necessarily a larger reliance on their individual discretion than in the case of ordinary Field Adjusters.

The significance of the appointment of Resident Field Adjusters in connection with the departure from the complaints basis of procedure is to be found in the following excerpt from Mr. Swope's letter of June 2, 1934 to State Directors on the subject:

> "Undoubtedly a resident Field Adjuster will hear many rumors of violation although no written complaint may have been filed. If the rumor appears to have substance the Field Adjuster should make an investigation even in the absence of a specific complaint. In only rare instances should the Field Adjuster attempt to adjust it by writing a letter . . . . .
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> "The (Resident) Field Adjuster must spend the greater portion of his time on outside work, contacting the employers and investigating not only filed complaints, but also rumors of violation which may come to him." (*)

This statement was followed eleven days later by the issuance of Field Letter 125 and Supplementary Memorandum No. 1 to Bulletin No. 7, which latter, in modifying the earlier Manual for State Directors, said:

> "The State Director must use his own judgment in determining the procedure which will be most effective and expeditious in a particular case. Bulletin 7 does not lay down a set procedure that must be rigidly observed in all cases. For example, instead of carrying on preliminary correspondence, it may be better to send an adjuster to interview the respondent or to ask the respondent to appear at the office of the State Director." (**)

Field Letter 125 stressed the value of office and field interviews in Adjustment work. It further suggested the elimination of a formal notice to the respondent giving the substance of the complaint, and the substitution therefor of a letter containing merely a brief invitation to call at the Compliance Office. It likewise recommended the practice of dispensing with all preliminary correspondence, and making the initial contact with the respondent by means of a field interview. (***)

(*) In NRA Studies Special Exhibits Work Materials #77. Ibid, p. 5.

(**) "Supplementary Memorandum Number One Relative to Adjustment of Complaints", p. 1 (underlining supplied). In spite of the underlined portion of the quotation, it has been previously pointed out that the converse is true. This was clearly an attempt to rationalize and to reconcile this memorandum, Field Letter 125 (both issued by the Compliance Division), and the actions of various field officials with the procedure created by the Administrator in Bulletin No. 7.

(***) Field Letter 125, p.11.

In this connection Field Letter 125 said:

> "The Compliance Officer is under no obligation to establish the fact that a complaint has been filed. For the protection of the complainant it is advisable in many instances not to inform the employer that a specific complaint has been filed against him." (*)

Field Letter 125 also provided a guide for the thoroughness of investigation. A detailed account of the proper contents of the case files was given, and a questionnaire form for interviews with employers, as well as a form for abstracting payrolls, were included. (**)

Thus, it is seen that, beginning with Field Letter 125, June 13, 1934 and in the period of development that followed, marked departures were made from the cumbersome, inflexible, and largely ineffective procedure established by the Regulations of October 19, 1933 issued to District Compliance Directors and by Bulletin No. 7, covering State Directors and Code Authorities. Under the old procedure all compliance activity was supposed to be predicated on complaints, which had to fulfill certain technical requirements, and almost the entire burden of proof, as well as the initiative, was thrown on the complaining employees and competitors.

The new procedure was developed out of the necessities of experience, influenced greatly by the powerful psychological factor of a new reporting system whereby field offices felt that their efficiency, value and reputations were on constant judgment by the number of violations discovered and adjusted and the amount of back wages collected. (***) Less and less stress was laid on the filing of complaints and on the important place of the complainant in compliance procedure, except as one source of information. The use of complaints as the basis of proceedings was never entirely eliminated, although it was generally contemplated by persons connected with compliance activities that a decided step would be made in that direction after the passage of the new legislation which was pending when the Supreme Court decision in the Schechter Poultry case abruptly terminated all efforts at code compliance. However, it should be noted in illustration of the final relative unimportance of complaints that on May 21, 1935, in a letter to all Regional Directors, the Chief of the Compliance Division placed a virtual statute of limiations on the filing of complaints, leaving each office to exercise its own discretion, according to certain standards, in determining whether or not the complainant had been guilty of laches in failing to report the violation promptly. (****)

(*) Ibid, p. 12.

(**) Ibid, pp. 19-20, 24, 27.

(***) See Chapter III, pp. 29-30, for a discussion of the effect of this reporting system on the evolution of an adjustment policy. A brief description of the system of reporting is there given.

(****) A copy of this letter is included in the appendices. It provided that the offices should be guided by the following general rules of thumb: ordinarily, a complainant still employed ought to report the violation within 60 days after it had occurred; an employee who had been discharged or dismissed should file complaint within 30 days thereafter.

Of course, between June, 1934 and May 27, 1935 there were many developments in compliance technique and in minor procedural points. However, for the sake of brevity at this point these developments are left to discussion in subsequent sections where they will be treated in detail.

One more modification of Bulletin No. 7 should be mentioned here as having a noticeable effect on the movement to discard the complaints basis. By Administrative Order the practice of sending complaints to Code Authorities "on reference" for adjustment was abolished as of June 15, 1934. (*) This class of complaints was thus added directly to the onus of the field offices and it became, to a very slight degree, easier to treat all complaints according to the newly formulated procedure.

The order further provided that Code Authorities which had been authorized to handle particular types of complaints "in the first instance" would continue to operate in the same manner under the designation "officially authorized". This was important because the Code Authorities which had been authorized to handle labor complaints were mainly organized to operate on an inspection or mass compliance basis and, therefore, indirectly additional impetus was given to the movement away from a strict complaints system.

(*) Administrative Order X-29 (May 12, 1934).

Section 3 - The development of the use of Field Adjusters. Under the original procedure for District Compliance Offices, as shown in the first section of this chapter, the initial step in the actual handling of an accepted complaint was to notify the respondent of the substance of the violation charged and to invite his answer thereto. A copy of the code and an explanation of pertinent provisions were also furnished.

This first contact, which was almost invariably by letter, had a two-fold purpose. In the first place it was supposed to serve as an easy, natural way to lead up to an adjustment. At that time adjustment had as its goal the obtaining of present conformity with the code and the assurance of future compliance. Little attention was paid to recompense for past violations. Consequently, the simplest method of approach was to say to the respondent, "It has been alleged that you have violated the code for your industry by paying your night watchman less than the minimum wage. The code provides that you must pay this class of employee not less than at the rate of $15.00 per week. Of course, if these facts are true, we realize the violation was probably due to ignorance or inadvertence. Therefore, we invite you to furnish us with your explanation of the above complaint, preferably in the form of a sworn statement." (*) The probably effect of such a letter on the respondent in shaping his answer to the complaint is obvious.

In the second place, the notification sent to the respondent was intended to fulfill certain legal requirements which were supposed to exist. It was felt that the constitutional prohibition against depriving a man of his property without due process of law (**) made it necessary to adopt a semi-judicial attitude and to furnish the respondent with notice of the charges against him and an opportunity to be heard in his own defense. While common fairness supported the latter part of this conclusion, it was found to be administratively unwise to deal with violations in a manner so resembling judicial procedure.

This feeling toward the restrictions of due process of law was closely allied with the dual presumption of the innocence of alleged code violators and the lack of intent to violate where noncompliance was established. This, in turn, lead to the logical conclusion that the burden of proof should properly be on the complainant. The presupposition, insofar as labor complaints were concerned, that the employer and employee stood on an actual parity in ability to enforce their legal equality of rights, seems to conflict with one of the underlying theories of labor legislation. In an early leading case

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(*) This is a paraphrasing of the form letter actually used by District Compliance Directors. See note p. 33 supra.

(**) Constitution of the United States, Fifth Amendment, "No person shall be deprived of life, liberty or property without due process of law."
The reasoning placing a strict application of this principle so as to require a formal notice to the respondent in the initial handling of a complaint is of questionable soundness, since neither the regulations were promulgated nor were administrative sanctions invoked at this stage of proceeding.

upholding the right of a state under its police power to enact labor legislation limiting the hours of employment of men working in mines and smelters, the United States Supreme Court said:

> "The legislature has also recognized the fact, which the experience of legislators in many states has corroborated, that the proprietors of these establishments and their operatives do not stand upon an equality, and that their interests are, to a certain extent, conflicting. The former naturally desire to obtain as much labor as possible from their employees, while the latter are often induced by the fear of discharge to conform to regulations which their judgment, fairly exercised, would pronounce to be detrimental to their health or strength. In other words, the proprietors lay down the rules and the laborers are practically contrained to obey them. In such cases self-interest is often an unsafe guide, and the legislature may promptly interpose its authority." (*)

Originally, such investigation as was made had to be conducted through correspondence and office interviews with the respondent. The respondent usually denied the existence of the violation or pleaded ignorance and good faith and professed a desire to comply in the future. On this basis the case was closed as adjusted.

Field offices were forced to accept at their face value statements and affidavits of respondents, which by experience and better reasoning the field officials knew to be false. Conscientious members of the field staff chafed and fretted under this spurious, legalistic procedure and made varied attempts to improve the situation. The disadvantages of this system communicated themselves to the officials in Washington, so that, in discussing the plan for a permanent governmental compliance machinery, the National Compliance Director said,

> "Like the temporary arrangement, this plan provides for a regional system to aid in the adjustment of complaints of violations of approved codes. --- Like the temporary arrangement, it is based upon the hypothesis that the great majority of complaints are due to misunderstandings which can be adjusted by education and information, by correspondence and conference. It is also based upon the hypothesis that to effect this, there must be well informed agents in the field --- to adjust the case where it arises and to make fair findings of facts.---
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> "---These State Directors will have a sufficient staff of assistants and adjusters to develop the facts and adjust complaints by education and information at the place where the complaint arises, as far as is practicable." (**)

(*) Holden v. Hardy, 169 U. S. 366, l.c.397, 42 L. Ed. 780 (1898). See also Commons and Andrews, "Principles of Labor Legislation" (Harper and Brothers, 1916) pp.28-30.

(**) William H. Davis, National Compliance Director, "NRA Plans for Code Compliance," December 5, 1933.

It came then to be realized as a fundamental conception of compliance administration that investigation and adjustment were interdependent and inseparable, and their combination was an indispensable element in the enforcement of the codes. The work of adjustment had as a prerequisite a thorough knowledge of the facts, and investigation was of little moment if the evils discovered were not subsequently corrected.

With the creation of Field Adjuster positions under the State Office system, and the growing recognition of the value of personal contact with employers and of active investigation, the new class of personnel soon assumed large importance in the organizations of the various offices.

In the beginning, Field Adjusters were largely untrained for their work, although many had practical business experience or a rudimentary knowledge of law or accounting. Their use, at first, as provided in Bulletin No. 7, was to act as a supplement to correspondence and office interviews, investigating only those cases which were not adjusted by the latter two methods. However, as experience grew in the use of field inspections and field interviews, the compliance staff took greater cognizance of the advantages of an adequate, well-trained group of field men. On the part of the progressive element in the Compliance Division, at least, there was a corresponding conscious effort to train Field Adjusters and to place some requirements on the positions, which bore a reasonable relation to the determination of the fitness of applicants and incumbents to fulfill the functions.

It has been already noted that by June, 1934 the use of Field Adjusters in the initial investigation and adjustment of complaints had been so increased that Field Letter 125 suggested the abandonment of the first letter of notification to the respondent in favor of an informal invitation to an office interview or an unannounced visit by the Field Adjuster to the respondent's place of business. (*) In connection with the latter alternative, Field Letter 125 said,

> "In the resulting interview hours of work and scale of wages are discussed and the situation can be cleared or adjusted frankly and without resentment, since the adjuster has the opportunity to seek the employer's cooperation before he has built up an attitude of resentment and defensiveness." (**)

Thus, it is seen that Field Letter 125 contemplated that the initial steps toward the adjustment of cases should be taken by the Field Adjusters. This attains significance as a token of the changes going on in the Compliance Division, its policies, methods of organization, when it is compared with the original provision of Bulletin No. 7, previously mentioned, and office interviews.

(*) Supra, p. 67 ; Field Letter 125, p. 11

(**) Ibid, p. 12.

At this point, brief mention should be made of the appointment of Resident Field Adjusters, as another evidence of the movement to direct adjustment efforts as much as possible to inspections and interviews at the situs of the violation, the respondent's place of business. This was in harmony with the statement of William H. Davis, National Compliance Director,

> "The plan provides for at least forty-eight State Directors. In certain of the large states, it may be necessary to have branch offices. These State Directors will have a sufficient staff of assistants and adjusters to develop the facts and adjust complaints by education and information at the place where the complaint arises, as far as is practicable.---
>
> "---it may become necessary for State Directors to place representatives out in the field in communities where a great volume of unadjusted complaints arise." (*)

The ideas embodied in the above quoted statement received recognition after experience in code compliance work had brought about the realization on the part of field executives that a proper understanding of compliance problems necessitated their becoming familiar with actual employment and competitive conditions. While a part of this process of attaining familiarity with the problems included actual contact with employers and workers at the place of employment, and, in the case of trade practices, with competing business men, the time element involved in the exercise of executive functions precluded the needed comprehension's being based entirely on first-hand knowledge. Consequently, the State Offices were practically constrained to depend largely on the reported experience of their field agents for their factual backgrounds.

Therefore, after the definite indorsement placed on their use by Field Letter 125, it was natural that the Field Adjusters were intrusted with a large proportion of the public relations work, in connection with the adjustment of cases. Included in this term were the creation of industrial good will toward the State Office, and the education of employers to their obligations and to the aims and benefits of NRA. Many offices instructed their adjusters to exert themselves to create the impressions of fairness and of desire to assist the employers in their difficulties. Likewise, it was a standard duty of Field Adjusters to aid the employers in installing and maintaining adequate sets of records. It was also customary to advise and help in preparing petitions for exemption, etc., where considered by the State Office to be justified. It is not to be understood by this last that the State Offices took the initiative in this respect, other than by advising respondents of their rights, where necessary. By a careful, slow building up of a reputation for fairness, and by the equally gradual creation of good will through education, the State Offices pursuing this policy were able to gain sufficient prestige to partially offset a shifting public opinion and the enforcement failures in the courts.

(*) Note p.69 supra.

As a part of the cycle of development, the growing popularity of the mass compliance system of operation necessarily added weight to the already strong emphasis on the use of Field Adjusters.

In August, 1934, Field Adjusters received an added minor function. By Office Order it was established that Divisional and Deputy Administrators having before them petitions for exemptions, etc., might request the Chief of the Compliance Division to assign field investigators to discover any pertinent and desired factual data. (*) Although definite figures concerning this use of Field Adjusters are not available, it is not believed that this procedure ever attained real importance generally. It is mentioned chiefly as an illustration of the trend of opinion on this general subject.

Although the main tendency was in conformity with the suggestion in Field Letter 125, to initiate action on a complaint by making a field investigation, nevertheless correspondence and office interviews continued to be used in a large number of the State Offices, mainly, in connection with cases involving the service trades and other intrastate industries where it was desired to conserve the time of the Field Adjusters in the interests of efficiency. In at least one office (**) it was the practice throughout the history of compliance activities to rely chiefly on office interviews. However, this last was due to unusual circumstances and cannot be taken as representative of all the field offices.

Section 4 - The direction and supervision of Field Adjusters. Closely allied with the development of the internal organization of field offices, discussed in the preceding chapter, and the increased use of Field Adjusters in compliance work, just mentioned, is the topic of the control and supervision over the adjustment staffs of the various offices. It is obvious that, in an organization in which the actual investigation and adjustment of cases was delegated to subordinates, on whose individual judgment, discretion and tact much reliance was necessarily placed, it was of prime importance that the executive staff of the field office should devise some thorough-going and workable system of supervision and control. This problem of the direction and supervision of the daily activities of Field Adjusters did not begin to have significance until about the late spring of 1934, because the occasion for the development of this phase of intra-office organization had not yet arisen. (***) However, with the developments in compliance procedure which brought the use of Field Adjusters to the fore, the same experience that had pointed out the fallacies in the original organization scheme of Bulletin No. 7 showed the necessity of the Labor

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(*) Office Order 107 (August 4, 1934). Reiterated in Office Manual, III-3233.3.

(**) The New York City Office. Here the extreme concentration of industry in a relatively small area, the presence of a large number of Code Authority offices, and the existence of other local factors and characteristics contributed to make this the most effective procedure.

(***) For the reason that few Field Adjusters were appointed before that time. See Chapter IV, "The Origin and Development of Field Offices," supra.

Compliance Officer's organizing, directing and supervising the efforts of the persons under him, to whom had been delegated the task of carrying out his broad functions of obtaining labor compliance. (*)

However, even as early as Bulletin No. 7 some provision was made which included the activities of Field Adjusters in the general organization plan. It was there provided that the Labor and Trade Practice Compliance Officers should be responsible for the assignment of complaints to their Field Adjusters and for the supervision of their activities in making necessary investigations. Field Adjusters were also to make daily and weekly summaries of their activities in addition to reports on each complaint handled by them. (**) In addition to these general instructions, there was prescribed a form for the Adjuster's report.(***) This report form included questions concerning the name and address of the employer, the name and position of the person interviewed, the nature of the records examined, a description of the violation discovered, the employer's attitude and any statements made by him, and the Adjuster's recommendations for further disposition of the case. There were also in Bulletin No. 7 (****) and in the form designated as "Instructions to NRA Adjusters", (*****) general statements of the method of approach to be taken by Field Adjusters in interviewing employers. These instructions stressed the fact that the Field Adjuster had no authority to require the production of records or the furnishing of information.

At first glance, it appears that the provisions for the direction and supervision of Field Adjusters, mentioned above, served as an adequate treatment of the subject. However, it must be remembered in this connection that there were few Field Adjusters on the State Office staffs at this time and their use was limited by Bulletin No. 7 to supplement the two more popular methods of adjustment, namely, correspondence and office interview. (******) It should be noted also that there was no clear provision for a system of initially training Field Adjusters and of critically reviewing their work. Because of the relative unimportance of this class of personnel in the general compliance procedure provided in the early period under the State Office system, and also due to the generally loose organization and the intra-office jurisdictional difficulties existing during this stage of development, little attention was actually paid by the State Offices to the previously described instructions and to the use of the Adjuster's report form.(*******)

(*) As pointed out in Chapter IV, Section 4, in the late spring and early summer of 1934, when the problem of supervising the Field Adjusters became important, the actual organization of field offices had been changed so that the Adjusters were placed under the Labor Compliance Officer, instead of under him and the Trade Practice Compliance Officer, as provided in Bulletin No. 7, p. 19.

(**) Bulletin No. 7, page 19.

(***) In NRA Studies Special Exhibits Work Materials #77

(****) Bulletin No. 7, pages 19 and 20.

(*****) A copy of this form is included in the appendices. It was largely a restatement of the provisions in Bulletin No. 7.

(******) Section 3, "The development of the use of Field Adjusters," p. 69, supra. See also Bulletin No. 7, pp. 15, 18-20.

(*******) Chapter IV, pp. 54-58.

Coincidentally with the development of the internal organization of the various field offices and the increased emphasis on the use of Field Adjusters, the various State Offices began to develop make-shift systems for reviewing and supervising the work of their Adjusters. Inasmuch as Field Adjusters came to be used more in the labor phase of compliance, the duty of evolving these methods of control fell upon the Labor Compliance Officers. Thus, in some of the states the Adjusters were required to fill out more comprehensive reports than the questionnaire form originally supplied. (*) Likewise, there came into use in a few of the offices "closure sheets" which were placed on top of the file and which were designed to contain a brief summary of the history of the case and its disposition. These "closure sheets" and the more comprehensive case reports required, were combined with a critical review of the handling of each individual complaint. In some offices there were initiated systems for gauging the productivity of individual Adjusters, which, together with the review of individual cases, served as a concrete method for analyzing the effectiveness of the adjustment staff. Consequently, a fairly adequate check on the application of standards and policies of adjustment and investigation could be made, which served as a basis for constructive improvements in operating efficiency.

This problem of supervision and control, which was primarily a mechanical one, had recognition in Field Letter 125 which made use of the individual attempts of development, just mentioned, and passed them on to all the field offices in the form of suggestions. Field Letter 125 provided more definitely for the assignment of work to the Field Adjusters by the Labor Compliance Officers. It also created certain requirements for the necessary records on each case and made suggestions as to the proper technique of investigation.

The effect of Field Letter 125 in this respect was to crystallize the standards of work of the Field Adjusters and thus to establish a general measuring rod for judging whether or not a case had been properly handled.

Forms also were provided by this Field Letter covering the information to be obtained from both complainants and respondents, records of interviews held on particular cases, abstracts from payrolls and time records, and a daily record of the productivity of each Adjuster. It was further contemplated that the case files should include complete reports on the history of the case and detailed descriptions of its investigation and adjustment. (**)

While these instructions and forms included in Field Letter 125 do not appear to vary greatly from the similar provisions of Bulletin No. 7 and forms issued in connection therewith, the real distinction lies in their different applications. By June, 1934, when the latter instructions were issued, the principle had been developed that Labor Compliance Officers were in complete charge of the Field Adjusters, subject only to the nominal supervision of the State Directors. (***)

(*) See page 74 supra.
(**) Field Letter 125, pp. 10, 13, 19-20, 22, 24, 25, 27, 31.
(***) See Chapter IV, pp. 38-40, supra.

Radical departures had been initiated from the original complaints plan of procedure in that there was substituted for the notice of violation and ensuing correspondence, unannounced visits by the Field Adjusters at the respondent's place of business. (*) Moreover, the policy and standards of adjustment had been develpped to include stress on restitution and a thoroughness in correcting all violations discovered by the investigation of the respondent's business. (**) It was natural that due to these changes in procedural technique, methods of organization, and philosophies of adjustment, the prescription of new instructions on the direction of Field Adjusters' activities should have a novel significance.

A further method of perfecting efficiency of organization of adjustment staffs was proposed by Field Letter 125 in the holding of regular staff meetings. It was suggested that these meetings be conducted by the Labor Compliance Officers about once a week, outside regular working hours. They were to be in the nature of round-table discussions of current practical compliance problems. Through this means experience could be interchanged, and the Labor Compliance Officer would be given an added opportunity to instruct his staff. (***) While the value of this plan, as a method of supervision and for the purposes of training and instruction, was apparent, but few of the offices were able to put it actually into effect. The constant demands on the time of the entire adjustment staffs in the various State Officers was so great, that the development of the idea was retarded and it was prevented from coming into universally regular use. Suffice it to say, that its inchote worth in improving the compliance machinery was generally recognized by the field offices, and, whevever possible, it was adopted at least in modified form.

It was also suggested that particular codes be assigned to individual Field Adjusters. This was to give the Adjusters an opportunity to specialize. It was realized that where warranted by local factors, it was desirable for the Field Adjuster handling a case to be familiar with conditions in the industry under the code and to have established lines of information from labor union officials, trade associations, etc. (****) This specialization idea was tried in a number of the offices following the issuance of Field Letter 125. In some it was soon abandoned as impracticable for local use, while in other State Offices it received fairly intensive application thereafter.

In the period that succeeded June, 1934, the various State Offices continued to improve on the suggestions embodied in Field Letter 125. While in some of the offices fairly adequate methods of control and supervision over Field Adjusters were finally devised, the goal of a standard system for training the personnel, and so directing and supervising the activities of the adjustment staffs as to attain the greatest efficiency and results, was never reached.

(*) See Chapter V, pp. 67,71
(**) See Chapter III, pp. 18-19, 1-
(***) Field Letter 125, p. 28
(****)Field Letter 125, p. 29; Supplementary Memorandum No.1, p. 2.

It is, however, worthwhile to mention the general lines along which the development of these methods for improving the effectiveness of the adjustment staffs took place. Because details varied greatly with individual offices, depending on the size of the staff, the volume of work, the personal qualities of members of the executive and adjustment staffs, and other outside factors, this discussion necessarily must be based on general experience with the efforts of the field offices in this direction.

In order to attempt to insure the proper application of the newly created standards of adjustment, it became the general rule that labor and trade practice complaints could be closed only on the approval of the Labor and Trade Practice Compliance Officers, respectively.

Because of the change in internal organization of the field offices at this time (*) the Labor Compliance Officers began efforts to train Field Adjusters in the proper techniques of investigation and adjustment. Both new and old adjusters were required to learn thoroughly the principles of handling cases as set forth in Field Letter 125. However, there was little chance for a careful, intensive training period. Most offices had large numbers of complaints pending, many of them several weeks old with no action ever having been taken on them other than a mere acknowledgment sent to the complainant. Consequently many newly appointed Field Adjusters during this period were assigned to the handling of complaints after only a very brief drilling in the fundamentals of NRA and after reading through Bulletin No. 7, Field Letter 125 and several of the codes. The great majority of this new personnel, like most members of the already existing compliance staffs, were totally untrained in the type of work they were to perform.

This method, dictated by necessity, of immediately injecting the new Field Adjusters into the work probably was in keeping with the theory that a good compliance technique could best be developed from actual experience. However, this procedure was undoubtedly a costly and inefficient use of the limited facilities provided for the investigation and adjustment of an overwhelming volume of complaints.

As the size of the adjustment staffs grew, the Labor Compliance Officers found themselves with no alternative but quickly to improvise some way of correcting the evils of the lack of initial training of the Field Adjusters.

Several means had been indicated by Field Letter 125. The use of daily and weekly production records served as an indication of whether or not the Field Adjusters were distributing their time in such a way as to obtain the maximum results in the adjustment of cases. As a supplement to these activity reports, the Labor Compliance Officers reviewed the case files and reports on complaints handled by the individual adjusters.

Since it is remembered that the Labor Compliance Officers were required personally to handle a fair proportion of the more important cases in addition to the full time tasks of planning labor compliance

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(*) Discussed supra, Chapter IV, pp. 59-[illegible].

activities and training and supervising their staffs of adjusters, it is apparent that such an arrangement was not adequate to take care of the situation.

In some of the larger offices, recognition was given to the fact that it was humanly impossible for the Labor Compliance Officers to perform fully all these duties. In order to alleviate the situation, it became necessary to appoint Assistant Labor Compliance Officers and Chief Field Adjusters to whom were delegated many of the details of the training of the adjustment staff and the assignment and review of cases. By so organizing his functions, the Labor Compliance Officer was enabled to devote more of his time to instructing individual adjusters on the proper investigation and adjustment of cases.

Through the knowledge gained from experience in handling complaints and aided by the slow improvement of the functional organization of various field offices, the Labor Compliance Officers were able to raise gradually the standards of work for Field Adjusters. Thus, in varying degrees during the fall and winter of 1934, the individual field offices evolved fairly effective systems of operation. In those larger offices having a more complete staff, provision was usually made for the initial training of new Field Adjusters by placing them under the tutelage of experienced members of the staff. The review of the case work of both old and new Adjusters was carried on by the Labor Compliance Officer or his Assistant by inspecting completed files and also by observing individual Adjusters during various stages of the handling of the case.

A few of the offices compiled their own manuals and compliance handbooks which were used primarily as substitutes for initial training courses. The majority of the State Offices, however, continued to induct new Field Adjusters into the work with no real attempt at preparatory training. Partially to offset the failure to comply with the necessity of primary training, there grew to be a tendency to raise the qualifications for Field Adjusters by requiring a knowledge of accounting and a familiarity with general business practices, as well as experience in meeting the public.

A few of the offices paid particular attention to the use of a record of the number of cases handled and back wages collected by individual members of the staff during stated periods, usually coinciding with the bi-weekly reports of the field offices to Washington. Averaged over a number of weeks, this type of individual adjustment record, when weighted by careful consideration of local factors and the review of individual cases, served as a fairly accurate indication of staff efficiency. Likewise, in some of the State Offices, there was adopted the policy of returning for rehandling those cases which the reviewing officer deemed to be unsatisfactorily adjusted. This policy had a double aspect. The pointing out of mistakes in individual cases as they arose taught the Field Adjusters the proper compliance technique in such a forceful manner that the same errors were not likely to reoccur. Also, in most offices a natural spirit of rivalry existed among the Adjusters. This was a logical consequence of the field office reporting system, under which each state office felt itself to be on constant judgment on the number of cases

handled and the amount of back wages collected. In a few offices, to accentuate the psychological effect of classifying a case as an unsatisfactory adjustment, a memorandum stating the errors which had been committed in the process of handling was inserted and made a permanent part of the case file, where it might be seen by any Washington official later inspecting the office.

The use of a plan for creating a desire among individual members of the adjustment staff to establish records in the quantity of work handled was made necessary by the ever increasing numberof old complaints on hand in most of the offices. By the last fall of 1934, when this practice became in vogue in some of the offices, it had become generally recognized that in order to arrive at a sound, permanent basis for operation, the State Offices would need to be free to direct their own efforts without the hampering restrictions of the complaints plan of procedure. (*)

Therefore, there was an added motive for laying stress on the quantity of work accomplished, as well as on the quality of adjustments, since in order to put the new plan of procedure into operation, the onerous burden of unadjusted complaints had first to be removed.

The individual adjustment record plan was applied in varying forms by different offices. Although the value of its use as a means of keeping check on individual efficiency, indicating needed personal supervision and increasing the volume of production, when properly correlated with standards of quality, was apparent, nevertheless, as followed in some offices, the plan had a questionable effect on the accomplishment of the goal of universal, lasting compliance. In this connection there should be mentioned by way of illustration the plan pursued by the San Francisco and Los Angeles, California State Offices. In these two offices almost the entire emphasis was laid on the amount of back wages collected by each Field Adjuster. In the San Francisco office in particular there was maintained a bulletin board on which was posted the number of cases handled and the amount of restitution secured by each particular Adjuster. Obviously, the purpose of this was to promote the natural competitive feeling of members of the staff and to incite them to increase their collection of back wages so as to establish a record for the office in this respect.

However, this practice was not followed to any considerable extent in other State Offices because it was generally believed that the amount of back wages collected alone was an inaccurate gauge for individual efficiency. Furthermore, it was felt that by overemphasizing the restitution feature of adjustment, there was a danger of tending to eliminate two essential aspects of compliance work, namely, the creation of industrial good will and the education of employers to their obligations under the codes.

After the creation of the Regional Office system, the State Offices were enabled to speed up the disposition of unadjusted cases. The new procedure created for the handling of cases bearing recommendations for the removal of NRA insignia or for legal action provided that they should be transmitted by the State Offices to their respective Regional

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(*) Supra, pp. 83-84.

Offices. (*) The close proximity of the Regional Offices to the field, and the enlarged facilities for taking further action on unadjusted complaints, tended to remove the previous hesitancy of some of the State Offices in referring cases to Washington. (**) As a result, there was a relieving outlet for those large numbers of cases, in which adjustment efforts were unavailing, but which the field offices continued to carry in their already too big inventories, because of a feeling of the practical uselessness of sending them to Washington for further action.

Thus also, being in fairly close touch with the Regional Directors and the Regional Field Representatives, it was made easier to suspend further effort on particular complaints or even entire trades or industries where a thorough knowledge of compliance conditions and past experience in adjustment work clearly indicated the probable futility of further action. Included in this class were the service trades and other strictly intra-state industries which had always been prolific sources of complaints from employees, and which, under the inflexible complaints plan of procedure had served to cause much wasted effort and misdirected use of compliance facilities.

Through this latter modification of the official procedure, there naturally came about a change in the standards of investigations and adjustment. This change manifested itself in further developments of the plans in the various offices for the supervision and training of the Field Adjusters. Thus, there tended to be a division in the assignment of cases into classes which were rated according to their relative importance to the entire compliance program.

The cases which were important because of size, questions of policy involved, or effect on the industry, were usually assigned to the most experienced and better Field Adjusters with the Labor Compliance Officer taking part in their actual handling. Complaints under unimportant and intra-state codes, such as the service trades and the Retail Food and Grocery Codes, were often handled by newer members of the staff or by correspondence. The balance of the work, which may be called "routine" cases, were assigned to the staff at large according to the plan in the particular office.

Some field offices adopted definite classifications for types of cases to effect an additional control over the time of the adjusters, the classification of any individual case, however, being subject to the recommendations of members of the staff. To further effectuate this purpose of organizing the work so as to derive the maximum results in efficiency, a few of the offices specified the amount of time to be spent on the different types of cases. Thus, in the Missouri State Office, for example, important cases were given an "A" rating; cases in the service trades and strictly intra-state industries, as well as in manufacturing and other important industries where less than five employees were involved, were grouped under "C". All other cases were placed in a "B" class.

(*) Field Letter 190

(**) This hesitancy was due to the fact that there was much delay in the disposition of cases sent to Washington and in some cases further action took the form of referring the file back to the State Office, perhaps months later, for new attempts at investigation and adjustment. In such cases, the result of transmitting unadjusted complaints to Washington often had a worse effect on compliance than if the complaint were merely dropped, since it served to advertise the fact that there was no practicable system for punishing violators.

Cases classed as "A" required a thorough investigation and a final report thereon had to be filed with the Labor Compliance Officer within two weeks from the date of assignment. In "B" cases the Field Adjusters were instructed to inspect payrolls and obtain statements from employees where deemed advisable, but to make a slightly less intensive investigation than in "A" cases. The investigation and efforts at adjustment had to be completed within one week. "C" cases were to be handled on a one call basis. The investigation was restricted to present employees and the complainant, since usually the establishments involved were small, of relative unimportance, and had no adequate sets of records. But two days were allowed for the completion of the latter type of cases.

This and other plans of a similar general nature were adopted by many of the offices. Such a scheme as the one described above required the entire staff, including not only the Field Adjusters but the Labor Compliance Officer as well, to work at continuous top speed, and was, therefore, impracticable for permanent use. Plans for marshalling adjustment facilities and speeding the disposition of cases, however, were made necessary to forestall a growing tendency on the part of respondents, heightened by adverse court decisions and the dismissal of the Belcher case (*) in the Supreme Court by the Government, to procrastinate and to delay the adjustment of cases. Such plans were also made necessary to enable the State Offices to concentrate their efforts where some constructive effect on compliance was possible of accomplishment.

Little has been said concerning the mechanical arrangements in the different field offices for the supervision of Field Adjusters. Although these plans varied widely, following the internal organization schemes of the particular State Offices, (**) there should be indicated the general lines followed.

In has been previously pointed out that in some States new Field Adjusters were assigned to more experienced men for training. Some of the offices, notably the Philadelphia, Pennsylvania State Office, went further and made permanent assignments of Senior Adjusters to supervise the daily work of the other Field Adjusters. Of similar nature was the plan pursued by a few of the offices whereby the functions of investigation and adjustment were divided, the latter being performed by Compliance or Office Adjusters, who were usually older men on the staff. The plan of assigning less experienced Field Adjusters to Senior Adjusters or other higher ranking members of the staff, either for permanent supervision or merely for training, was probably followed by most of the offices.

(*) U. S. v. W. E. Belcher, et al, United States Supreme Court, October term 1934, No. 628. The Government's appeal in this case, which was designed to test the constitutionality of the Lumber and Timber Products Code, was voluntarily withdrawn on April 5, 1935, and the appeal dismissed by the court. Wide publicity had attended the case, which was heralded as supposedly the first step in a new program of vigorous enforcement of the codes.

(**) Supra, Chapter III "The Origin and Development of Field Offices."

The major problem was to evolve an effective system for the orderly assignment of work and the direction of compliance efforts so as to obtain the maximum results in efficiency, thus avoiding duplication of effort. At the same time it was necessary to drive the adjusters to increase the quantity of work handled, and yet to keep such careful supervision over the application of the principles and standards of adjustment that each case handled would be a constructive step toward the education of industry and the ultimate condition of universal, permanent code compliance.

This standard of accomplishment seemed almost impossible of attainment. The fulfillment of the purpose was hindered by the absence of a training program, the lack of standard qualifications for Field Adjusters, and the careless, non-scientific method of selecting personnel. However, gradual but continuous progress toward the goal was made through the efforts of individual offices in developing systems of supervision and training, the further refinement of standards and policies in Washington and the field, and the slow improvement of the technique of handling cases of violation.

Section 5 - Technique of investigation. As in the case of methods of supervision over Field Adjusters, little progress was made in the development of the proper technique of investigation during the first six months of the Compliance Division. Under the original instructions to District Compliance Directors and for several months after the creation of the State Office system, the investigation of cases consisted largely in taking the complainants' statement, writing the respondent for his side of the story, and perhaps interviewing one or both the parties in the NRA office.

Bulletin No. 7 provided for the limited use of Field Adjusters and contained some instructions on the technique of investigation. (*) These were limited to a few general rules of conduct and a brief statement of the procedure to be followed in field interviews.(**) For example, Field Adjusters were instructed not to interview employees during working hours or on the business premises without the respondent's permission. In making a field call the Adjusters were told first to see the respondent and discuss the complaint with him. In the event the latter admitted the facts as alleged, a statement proposing the terms of an adjustment was to be obtained. Likewise, if the respondent took issue only as to the application of the Code to the facts, the Field Adjusters were to get a clear explanation of his position.

In the more likely type of case, where the facts alleged were denied, the instructions were equally scanty. The Field Adjusters were told to request permission to examine the appropriate records, such as time cards, pay rolls, canceled checks, invoices and sales slips. In the event such permission were refused, Bulletin No. 7 stated that Field Adjusters were not to insist upon access to the records, but merely to explain to the respondent that his refusal would be taken as an indication of a desire not to adjust the complaint.

(*) See Section 4. "The Direction and supervision of Field Adjusters", supra.

(**) Bulletin No. 7, pp. 19-20.

These instructions were silent as to obtaining evidence of violation by investigating other sources of information. As has been pointed out before, since Bulletin No. 7 was the official manual for field office compliance activities, there was a tendency to interpret it literally. Consequently, the impression created in the minds of the field staff tended to be that in those cases where access to the records was refused no further investigation was necessary.

Fortunately, however, the bad effect of these instructions on compliance technique was not so serious as would seem. Since there were but few Field Adjusters appointed until the latter part of the spring of 1934, there was little occasion to pay attention to investigational technique during the period immediately following the issuance of Bulletin No. 7. Consequently, the cursory methods of investigation which seemed to be indicated by these instructions did not become deeply ingrained in field office procedure.

Here it is well to point out that, although the foregoing may be implied as a criticism of Bulletin No. 7, at the time those instructions were issued there existed practically no experience in the use of field investigations from which to draw. It was only after the developed use of Field Adjusters, and the changes in compliance procedure, standards and policies of adjustment, and methods of organization, gradually evolved from the daily experience of handling complaints, that a practicable, effective compliance technique was created.

The improvement of the methods and scope of investigation followed the general pattern of development of the Compliance Division. Individual offices placed higher standards on the investigation of cases and gave added instructions to their staffs on the actual mechanics of inspecting records and interviewing employees and respondents. Experience taught certain tricks of the trade, such as reconciling pay roll and time records with production records to determine accuracy, and the psychology of obtaining seemingly voluntary access to records.

In the period from January to June, 1934 certain other fragmentary instructions were issued to the field. For instance, the offices were told to ascertain the form of business organization before transmitting unadjusted cases to Washington. (*) In this connection, there was sent to the field offices a code complaint analysis form for guidance in preparing cases for the National Compliance Board. (**) Shortly after the issuance of the analysis form it was found desirable to urge the field offices to include all necessary evidence and information in the files, so as to facilitate action on unadjusted cases in Washington. (***)

(*) Field Letter 62 (February 15, 1934).
(**) Field Letter 68 (February 28, 1934).
(***) Field Letter 86 (March 22, 1934).

It is to be noted that this last mentioned group of instructions related only to the very small percentage of cases which were forwarded to the National Compliance Director for further action. However, it should be understood that the ideas embodied in these instructions for the preparation of unadjusted case files were applied by some of the offices to all complaints and thus assisted in shaping their techniques.

Again there was a well-defined change with the issuance of Field Letter 125. The standards of adjustment which were promulgated furnished definite lines for the development of the thoroughness of investigations. (*) The departures from the strict complaints basis of proceedings, moreover, brought about the thorough inspection of the entire payroll and the more adequate examination of the employer and workers through personal interviews. (**)

Besides laying down standards of the thoroughness and scope of investigations, Field Letter 125 also contained suggestions as to the practical mechanics to be employed. There were included forms for interviews with employees and employers and for abstracts from payrolls. (***) The former were designed to serve as guides for the preparation of employees' statements and for the information to be secured from respondents. The payroll form was used for the compilation of the specific data needed on hours and wages to determine compliance.

It was also suggested by Field Letter 125 that each office develop its own sets of forms, according to its needs, covering other aspects of the handling of cases. This they did, and in January, 1935 they were made the subject of a study by the Coordinating Branch of the Compliance Division for the purpose of standardization. (****) The initial stage of this study was completed and in May, 1935, there were transmitted to the field offices for criticisms and comments the developed forms, including the following: report of employer interview, record of interview, request for investigation, employee's complaint, Field Adjuster's daily report, restitution work sheet, financial statement, transcript of payroll record, and record of employees' time (to be used as a time sheet by the employer)*****

It is to be noted with interest that in neither Bulletin No. 7 nor in Field Letter 125 was there any reference to the interstate character of transactions involving code violations. This is striking because the Act limited criminal penalties and action by the Federal Trade Commission to transactions in or affecting interstate or foreign commerce. (******) Moreover, it was the general consensus of legal opinion that the Congress

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(*) See Chapter III, "The Administrative Settlement of Code Violations", pp. [illegible]-36

(**) See section 2, "Development of a new compliance procedure", p. 6

(***) These forms are to be found, in the order named, in Field Letter 125, pp. 22, 24, and 27.

(****) Field Letter 194, p. 2.

(*****) Field Letter 214, pp. 1-2.

(******) See Chapter III, "The Administrative Settlement of Code Violations", p. 13

had based its authority to enact the National Industrial Recovery Act on its power to regulate commerce between the several states and with foreign countries. At any rate, it is fundamental that the interstate aspect is an essential ingredient of Federal jurisdiction over regulatory measures of this character, unless based on some specific constitutional grant of authority.

Not only were there no instructions during this early period as to including an examination of the interstate aspects in the investigation of complaints, but no distinctions were drawn between the two classes of commerce in the regulations issued to the field governing the adjustment of code violations. Nor did any of the codes contain definitions of industry which were so qualified as to exclude intrastate members.(*)

With this total lack of emphasis on the interstate character of violations in regular adjustment work, it was natural that this phase of investigational technique was weak, even though some development was made in obtaining proper evidence of the respondent's compliance status. To be sure, the code complaint analysis sent to the State Offices with Field Letter 68 did include questions touching on this subject, but no suggestions were made as to what constituted proper evidence thereof.

However, at this point there should be mentioned an important influence on the improvement of investigational technique both as to the question of compliance and as to the problem of whether or not the violations found affected interstate commerce.

Under Administrative Order X-14 (April 6, 1934) it was provided that the State Directors might refer clear cases of unadjusted violations direct to the appropriate United States Attorneys for legal action, without following the regular channels leading through the National Compliance Director and the National Compliance Board.(**) It has been pointed out in an earlier portion of this chapter that the effect of the shortened procedure created by this Administrative Order was to place the various State offices in fairly close contact with the local United States Attorneys. Slightly preceding this the Litigation Division was established to cooperate with the Department of Justice in the handling of all NRA litigation. (***) Both the Litigation attorneys, who traveled among the State Offices, and the United States Attorneys served to acquaint the field officials with the legal requirements as to evidence, the essential points to be covered by investigation, and the importance of properly preparing cases. Through the medium of preparing cases

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(*) However, the Motor Bus and Transit Codes had definitions which were partially qualified by the distinction between inter- and intrastate operations, but only to resolve a conflict in jurisdiction of the two codes.

(**) Supra, section 1, "Complaints, the basis of procedure," pp. 53-61

(***) Office Order 74 (March 26, 1934).

for litigation, the members of the field staff learned the necessity of conducting themselves in a careful and prudent manner beyond reproach by opposing counsel, of obtaining definite, direct evidence of violations and their effect on interstate commerce, and of being thorough in their work.

In connection with the preceding discussion it is interesting to observe the following instruction to the field offices,

> "The codes regulate transactions 'in or affecting interstate commerce.' The Administration's view is that in the present emergency the vast bulk of industrial and commercial transactions and activities fall in this category, and the Administration has been very successful in upholding this view in court. Accordingly, in dealing with respondents, you should not be influenced by any contentions on their part that their transactions were not 'in or affecting interstate commerce.'" (underlining supplied). (*)

With the influence of preparing cases for litigation, the creation and development of standards of adjustment, the increasing use of Field Adjusters, and the modifications in the complaints plan of procedure, the various field offices embarked on a period of gradual, steady improvement of their techniques of handling cases. It has already been shown that beginning about the late spring of 1934 the practice of inspecting the entire pay roll came into use.

Moreover, the use of mass compliance methods in various degrees necessitated a broadened scope of investigation. In order to cover as much ground as possible inspections were limited to samples of the pay rolls, chosen usually at random. By checking the hours and wages of only a few employees or for sample weeks, a good indication of the extent of compliance could be obtained. Where violations were discovered in more than occasional numbers, a further audit was made either by the Field Adjuster, the respondent's bookkeeper, or by an independent accountant.

Pausing a moment to analyze what has been said, it is seen that the investigation of code violations, whether under a mass compliance or a single complaint system, depended on the keeping of adequate, correct records by the respondent. (**) Without such records resort had to be made to the oral testimony of employees. Of course, in a small percentage of cases the workers kept their own hour and wage records, but these were usually inadequate and were worthless unless coupled with the statements of the particular employees. It was, of course, extremely difficult to prove the existence of a definite violation without records, where the respondent denied the facts. Then too, some instances were found where disgruntled employees gave false statements and made up bogus records, actuated by personal grudges against their employers or merely by the desire to obtain money.

(*) Field Letter 155, p. 1 (August 25, 1934)

(**) This dependence of investigation on the keeping of adequate records is discussed in more detail in Chapter VII, "The Method of Handling Complaints."

The falsification, incompleteness, and, in some cases, the total absence of records placed a serious obstacle in the way of the field staff in handling cases. This difficulty was partially met by the Field Adjusters' attempts to educate employers to install adequate records, as a regular part of adjustment work. As a purely voluntary proposition, however, results were far from satisfactory, since the respondents had before them fresh evidence of the advantages enjoyed by them in not keeping good records. Few codes contained provisions requiring the keeping of books, and there was no general Executive or Administrative Order on the subject. (*)

There being no general requirement for the keeping of records and no legal authority in the Compliance Division to make inspections, it was natural that some other means should be invented to bolster the campaign of education. One such means was provided for in the Act, in that it stated that, "Upon request of the President, the Federal Trade Commission shall make such investigations as may be necessary to enable the President to carry out the provisions of this title." (**)

An informal arrangement was made whereby NRA turned over certain funds to the Federal Trade Commission to be used for investigating code violations, pursuant to this section. This plan was employed by the National Compliance Board in a number of cases (***) and also by some field offices unofficially before May 1934.

Finally, in Field Letter 107 it was announced to all the State Offices that where a general survey of a situation was called for, or where access to records had been refused, they might request the services of a Federal Trade Commission investigator through the Field Branch of the Compliance Division. (****). This announcement had importance because of its effect on the investigational technique of the field.

(*) The National Industrial Recovery Act, Title I, section 3 (a) contained the following provision," - - - The President, may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, -- as the President in his discretion deems necessary to effectuate the policy herein declared."

(**) National Industrial Recovery Act, Title I, section 6 (c).

(***) For examples see minutes of the National Compliance Board, 35th meeting, December 27, 1933, case against Ramsey's "They Cannot Rip , New York City; 37th meeting, January 2, 1934, cases against Truckers Ice and Cold Storage Co., Ltd., Kenner, La. and Wulf Bros , Inc., New York City; 40th meeting, January 5, 1934, case against Edward T. Jones, Kansas City, Mo.

(****) Field Letter 107 (May 8, 1934), p. 2.

There was prevalent the mistaken belief that the Federal Trade Commission Attorney Examiners had the power to compel the production of books and records. (*) Consequently, this working arrangement with the Federal Trade Commission for the investigation of NRA cases was used effectively as a lever to obtain access to records where permission to inspect was first refused. (**)

Still another important adjunct to the field technique of investigation was stated in a later instruction to the State Offices. In order to guard against falsified records and erroneous information the Compliance Division invoked the aid of a federal statute imposing heavy penalties of fine and imprisonment on persons knowingly making false statements to any official of the United States with regards to any matter within the jurisdiction of any department of the Government. (***) While the applicability of this statute to compliance activities is probably doubtful legally, nevertheless, it served as a useful weapon for the field staff in those cases where the respondents attempted to falsify or conceal the facts. Again the importance of this was not in its strict legal implications, but rather in the practical use to which it was put by the field offices.

It is, of course, apparent that the indiscriminate use of anything resembling threats of action by the Federal Trade Commission or of prosecution under the criminal statute on falsification, just mentioned, would likely cause resentment and create a harmful effect on the NRA program. It should be borne in mind that the practical necessities of the situation required that the Compliance Division implement its extremely doubtful authority to operate on even a modified inspection system, which experience disclosed to be the soundest plan of activity. Generally speaking, these two methods, above described, of filling the gap of authority, were used comparatively rarely and only with tact and care.

(*) However, the Federal Trade Commission Act provides for the compulsory production of records and information only on the issuance of subpoenas by members of the Commission as to matters before it. See 15 U. S. C. A. sec. 49, 38 Statutes-At-Large, C. 311, sec. 9. The issuance of such subpoenas, of course, involves the following of a certain procedure, and natural persons so required to produce evidence are granted amnesty from criminal prosecutions based thereon. Idem.

(**) This arrangement for the investigation of cases should not be confused with the provision in the National Industrial Recovery Act, Title I, section 3 (b) that any violation of a code in a transaction in or affecting interstate or foreign commerce should be deemed an unfair method of competition within the meaning of the Federal Trade Commission Act. Under the latter section action by the Federal Trade Commission was under its power to issue cease and desist orders as provided in the organic act.

(***) Field Letter 185 (November 30, 1934), p. 1, paraphrasing Section 35, U. S. Criminal Code, as amended June 18, 1934, 18 U. S. C. A. sec. 80, as amended.

The skill of the field offices in making investigations, and their scope and thoroughness in examining into the facts improved gradually with experience. But, as shown in the preceding section on the direction and supervision of Field Adjusters, this improvement was attained through a "catch-on" process.

It was not until after the announcement of the creation of the Regional Offices that any worthwhile attempt was made to instruct the field in the proper preparation of cases. In a Field Letter (*) at that time instructions were issued to the State Offices regarding the preparation of affidavits. Stress was laid on the fact that the successful litigation of a case depended to a large measure on its initial preparation. There was pointed out also the practical value of securing affidavits or witnessed statements from employees, in case they later retracted or changed their testimony through fear of discharge or for other reasons.

These instructions were valuable because they included specific suggestions as to the contents of the affidavits. Briefly, the following general rule on the data to be included was announced.

The statement or affidavit should be in simple terms, preferably in the signer's own language. It should contain the name, age and address of the worker, the nature of the work in sufficient detail to show the employee's code classification, the period of employment, the nature of the violation alleged in very specific terms, and the employer's attitude toward compliance and his knowledge of the violation. The following form was recommended to show the nature of violation:

> "On August____, 1934, at the request of _____ (name of employer) by whom I am employed, I commenced work at 8 a.m. and worked until 6 p.m., with one (1) hour for lunch. During that week, ending August_____, 1934, I worked fifty-two (52) hours for which I was paid $_____, at the rate of $_____ per day/hour." (**)

Besides the employee's affidavit, mentioned above, it was stated that the file should contain at least one general sworn statement covering the following points; the form of business organization, and the state of incorporation and officers' names if a corporation, the nature of the employer's business in detail, with the size, branches, and number of employees, and the principal markets and sources of raw materials.

These affidavits were intended for use only in those cases which were likely to become subjects of litigation. It was pointed out that the failure to include this evidence in the file resulted in unnecessary

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(*) Field Letter 191 (December 28, 1934). The contents are discussed in the paragraphs which follow.

(**) Field Letter 191, p. 2.

delays in the final preparation of cases and the institution of action. Of like import was the fact that in many cases it was exceedingly difficult to supply this evidence at a later date if not secured during the initial investigation. Employees became afraid to give further statements and respondents grew reluctant to supply further information and to allow additional inspection of their records.

At this point there should be mentioned a proposal to improve field investigation technique, which was developed in the late fall of 1934. Through conferences between representatives of the Litigation and Compliance Divisions and the Chief Examiner of the Federal Trade Commission there was evolved a plan for the training of State Compliance Office staffs in the preparation of cases.(*)Under the proposed project certain Attorney Examiners of the Commission were to hold short training sessions in the State Offices named on the specified list. It was felt that the technique developed by the Federal Trade Commission through its larger experience in investigating complaints would be of great benefit to the Compliance Division's field offices in improving the quality of their work. That there was need for some such system was fairly evident. However, the practical difficulties of placing the plan in operation caused the initiation of the project to be postponed several times, so that it was never given a trial.

The creation of the Regional Office system had little noticeable effect on the development of investigational technique. The closer supervision of the field offices and the additional personal contact through the visits by Regional Field Representatives or their equivalents, furnished another medium for instructing and training the State Office staffs. The improvement of technique, however, was mainly brought about by daily experience in handling cases and continued to be gradual. The restatement of the standards of adjustment in Field Letter 193 is somewhat more complete and definite form only served to emphasize the developments which had been already made.

However, it is not to be understood that no further attempts were made by the Compliance Division to improve field technique. On the contrary, beginning with Field Letter 191 and in the five months of compliance activities that followed, several noteworthy attempts at improvement were made. The point is that the majority of the field offices had attained the improved stage of development through experience prior to the issuance of these additional instructions.

In this connection, the form for analyses of cases to be heard by the Regional Counciles (**) furnished a guide as to the points to be covered by investigation. A few weeks later a new complaint analysis form was sent to the field, giving more detail on evidence of interstate

(*) In MRA Studies Special Exhibits Work Materials #77
(**) Field Letter 193 (January 10, 1935).

commerce, i.e., as to the respondent's size, markets, sources of raw materials, competitors, character of advertising, and method of distribution; and direct evidence of interstate sales. (*)

A more aggressive psychology of investigation was also indicated by an instruction suggesting that the State Offices have their Field Adjusters check firms whose labor exemption petitions were denied. (**) However, a backward step was later made restricting the initiation of mass compliance industry surveys. In May, 1935, possibly because of unfavorable publicity received by NRA in hearings before the Senate Finance Committee on the proposed extending legislation, and possibly because of the pending decision of the Supreme Court on the constitutionality of the Live Poultry Code, the State Offices were instructed not to conduct any industrial mass compliance surveys without prior specific approval from Washington. (***)

Probably the most important contribution to the development of field technique and field office organization during the period under the Regional Offices was the evolution by the Coordinating Branch of new types of forms for State Office use. This came as a result of a survey of non-standard forms in use by various State Offices, conducted during the spring of 1935. Their value lay in the fact that they tended toward a more orderly and uniform preparation of cases. These forms, which have been described briefly earlier in this section, were an important part of the mechanics employed by the State Offices in the handling of cases. (****)

During this same general period of development a memorandum from the Compliance and Enforcement Director was sent to the field offices reiterating the instructions contained in Field Letter 191 relative to affidavits. This memorandum contained only a general admonition that the files sent to the Regional Offices should contain at least one affidavit from a person having a direct knowledge of the facts, or from the investigator. Field offices were cautioned to make findings of violations only where justified by the evidence and to consider the sufficiency of the proof for a council hearing in preparing a case. (*****)

Reviewing what has been said concerning the evolution of a technique of field investigation, it is striking that the majority of the development came from the experience of the State Office staffs themselves. No uniform standards of investigation were ever created, nor was there any system for training and directing the field staff ever placed in operation. Some progress was made in the direction of uniform improvement by the non-standard form study by the Coordinating Branch, by the development of standards of adjustment by the slow process of growth of the Compliance Division's

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(*) Field Letter 197 (February 4, 1935).
(**) Field Letter 205 (March 23, 1935), p. 2.
(***) Field Letter 219 (May 22, 1935), p. 1.
(****) See page 84 supra.
(*****) Field Letter 209 (April 20, 1934). See also page 89 supra.

policies and methods of operation, and by the continual interchange of ideas and experiences among the field offices themselves. This gradual, natural improvement of the use of field investigations, however had certain practical limitations on its growth as regarded the technical legal requirements as to the character and sufficiency of proof. This last fact probably had general recognition in the Compliance Division as well as in the Litigation Division, which was charged with the actual handling of cases presented for legal action.

In view of the fact that few of the Field Adjusters were lawyers, and there was no regular system of training, the existence of these limitations is not surprising. There already was a knowledge of compliance conditions and NRA policies and a familiarity with the practical problems and the methods of investigating cases, gained from actual experience. There was lacking only the knowledge of the technical legal aspects of the preparation of cases.

In a few of the offices, however, depending on the personnal and on local conditions, the staff finally attained a completed technique of investigation, including a working knowledge of the legal requirements as to the form and sufficiency of evidence.

In this connection, some steps were initiated to complement the technique of field investigation of the rest of the offices. Under date of March 30, 1935 the Acting General Counsel of NRA sent a memorandum on the preparation of cases for litigation to the Regional Directors, members of Regional Compliance Councils, State Directors, Regional Attorneys, Regional Litigation Attorneys and Assistant Compliance Attorneys. This memorandum called attention to the problems of proper investigation and requested the full suggestions and comments of the State Directors and their staffs for a solution. There was attached a copy of suggested instructions and report for investigators, prepared by the Chief Assistant U. S. Attorney for the Southern District of New York. This pamphlet, which contained many practical and helpful suggestions, was also made the subject of comments by the field offices. However, further efforts in this direction were halted by the termination of all compliance activities on May 27, 1935.

Section 6 - The technique of adjustment by conciliatory measures.

It has been shown in a previous chapter that the function of obtaining compliance had as an essential element the adjustment of complaints of code violations. Adjustment in turn gradually came to mean the education of the respondent to his obligations, the bringing about of present conformity to the code provisions, and, at least in the case of wage and hour violations, restitution in full by the employer of the amount found to be due the employees by the adjustment agency.

Coincidentally with the development of the standards and policies of adjustment to the point just described, there came about certain changes in the technique and mechanics of adjusting cases. These changes were closely correlated with the improvements in investigational technique, discussed in the preceding section.

Under the original plan contained in the "Regulations for the Adjustment by District Compliance Directors of Complaints of Code Violations," issued October 19, 1933, the only means for adjustment provided were by correspondence and office interviews. (*) Due to the large volume of complaints and the extremely limited personnel the District Compliance Offices were constrained to handle cases by the unsatisfactory method of correspondence, augmented so far as possible by office interviews with the respondents.

With the gradual development of the field organization under the State Office system and the growing experience in obtaining compliance, modifications were made in these methods of operation. While correspondence and office interviews continued to be used, they assumed a different aspect. In their stead there came into use field interviews and other additions to the adjustment technique. Inasmuch as the evolution of field compliance procedure has been treated in earlier sections of this chapter, the following discussion will not reiterate a description of the historical development of the various aspects of adjustment technique.

The field personnel quickly recognized the disadvantages to adjustment work of restricting their activities to correspondence and office interviews. Experience dictated the necessity of familiarity with the actual business operations of the respondent for a proper performance of the compliance functions. Accordingly, after Field Adjusters began to be added to the various State Office staffs in the spring of 1934, and the needed facilities were to some measure provided, the use of field interviews assumed large importance.

The value of interviewing the respondent at his place of business and attempting to obtain an adjustment on the spot, is stated in the following extract from a Field Letter:

> "In the resulting interview hours of work and scale of wages are discussed and the situation can be cleared or adjusted frankly and without resentment, since the adjuster has the opportunity to seek the employer's cooperation before he has built up an attitude of resentment and defensiveness." (**)

(*) See supra, p. 53.
(**) Field Letter 125, p. 12.

Field interviews received their greatest use in the labor phase of compliance. It has already been shown that the developed policies and standards of adjustment brought about the investigation of the respondent's payroll at his place of business. The natural procedure was at least to initiate the arrangements for adjustment at that time. A certain psychological advantage was gained by calling the violations to the respondent's attention immediately that they were discovered, and placing the employer in the position of having to show his good faith by agreeing to make an adjustment.

Moreover, the Field Adjuster making the investigation usually established an entree in the course of the inspection and was able to attain familiarity with all aspects of the case. Certainly, it was more efficient in most cases to allow the Field Adjuster making the investigation to apply his knowledge of the facts to a correction of the violations.

Thus, it is seen that the advantages of field interviews as a means of adjustment are three-fold. This procedure was a more simple and more natural one, and therefore easier to follow in every-day practice. It made a more efficient use of the limited compliance facilities, since it properly correlated the two interdependent features of investigation and adjustment, and tended to avoid duplication of effort.

Secondly, closely related to the first aspect, it enabled the adjustment staffs to handle cases with a fuller and more intimate knowledge of the facts and the causes of the violation. From such a starting point it was possible to give the proper treatment to cases so as to create permanent compliance. It must be remembered that compliance work was not a mere mechanical task of discovering violations and seeking restitution of back wages. Much more important was the education of employers to their obligations, convincing them of the benefits of compliance, obtaining the installation of adequate records and other systems to make the mechanics of code observance comparatively easy, and the attempted alleviation of competitive and other outside influences which were fundamental causes of violations.

Finally, there was a certain psychological effect attached to field interviews which facilitated the adjustment of cases. It is almost a truism that speedy, coordinated handling of a case is conducive to a satisfactory adjustment. The informal procedure of immediately calling the respondent's attention to violations and requesting an adjustment was consistent with the pronouncements of the Compliance Division officials that they desired to cultivate the good will of business men. Further, employers felt less resentment than they did where they were required to leave their places of business and come to the State Office for a conference.

Likewise, in the comparatively small number of trade practice complaints handled by State offices, field interviews were proved to be of value. This was particularly true in those cases in which friction had previously developed between the respondent and the Code Authority. A personal call at the respondent's place of business

was often found to be the medium of restoring friendly relations and of clearing up misunderstandings.

However, a larger number of trade practice cases was handled by inviting respondents to appear in the State Offices for conferences. This was because most State Offices found it necessary to assign their Field Adjusters to labor violations. Also, as has been pointed out before, by their very nature trade practice violations were more susceptible of treatment by conciliation and mediation under the complaints plan of procedure. Office interviews on trade practice complaints were also used in a number of cases where the State Trade Practice Compliance Officer acted to supplement the Code Authority's efforts. These usually took the form of conferences between the representative of the State Office, the respondent, and the complainant or the Code Authority's members, which were almost solely for purposes of composing the differences of the parties. Little fact finding was necessary.

In labor complaints office conferences had a slightly broader aspect, although their use was more restricted. Office interviews as part of the adjustment machinery for dealing with labor complaints took two forms. In a minor percentage of cases the final arrangements for adjustment could not be completed in the field. It became necessary then to invite the respondent to the State Office to discuss the settlement of the case. This might be due to the fact that certain important questions of policy were involved in the case which made it advisable for the adjustment to be personally supervised by the Labor Compliance Officer or a member of the administrative staff. Also, because of peculiar circumstances in a case or on account of the personality of the respondent, it was sometimes advantageous to seek an adjustment through an office interview rather than in the field.

In the latter connection there should be noted another cause operating for the employment of office interviews in the adjustment of cases. The internal organization scheme used in some of the offices was so devised that the functions of investigation and adjustment were largely divided, so that the latter was chiefly the province of the office staff, rather than the field staff. (*) The latter was notably true in mass compliance surveys, discussed in a later chapter, although it was used by a few larger offices as a regular system of operation.

The second form of office interviews was the joint conference between respondent and complainant. This closely combined fact finding and adjustment. This type of interview, which was more in the nature of an informal arbitration hearing, was used mainly where no adequate records existed or where for other reasons the facts were obscure. Its use extended chiefly to the codes covering industries characterized by small establishments, such as Retail Food and Grocery, Restaurant, and the like. The procedure at such conferences was to draw out the facts, as far as possible, by questioning both parties, and then to attempt to arrive at a mutually satisfactory adjustment. Such procedure,

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(*) See discussion on the finally developed internal organization of field offices, Chapter IV, pp. 46-47.

it is true, left considerable room for departures from adjustment standards. However, it is to be remembered that this type of joint hearing was used almost solely in the more or less small, unimportant intrastate and service trade cases. In the absence of a uniform requirement for the keeping of records and power to compel the production of evidence, the practice was regarded as a makeshift to take care of an immediate situation, in the same general category as the suspending of final administrative action on certain codes deemed not susceptible of successful enforcement.

As a supplement to the methods of adjustment just described, the State Offices continued to make use of correspondence. It has been shown that originally practically all compliance efforts were carried on by this means. Its disadvantage as a primary method of operation are apparent. It undoubtedly bred delay and deceit on the part of industry members, and served to create the impression of inefficiency and ineffectiveness in the compliance machinery which became a great handicap to the field offices in their relations with industry, labor and the public.

As quickly as possible, therefore, the State Offices ceased to use this type of procedure, except for the initial notice to the respondent and for such correspondence as was necessary incidental to the investigation and adjustment efforts in the field. Moreover, following the suggestion to that effect in Field Letter 125, even the initial notice to respondents was largely eliminated. (121)

However, in the last few months of compliance history, correspondence came again to be used for the handling of the service trades and some intrastate codes. It was felt that the time and energy of the Field Adjusters ought to be conserved for the larger, more important codes covering industries which were considered to be engaged in or affecting interstate commerce. This also was regarded as a temporary arrangement pending the determination by the officials in Washington as to the disposition of the codes in question.

In the course of the months of experience in preparing unadjusted complaints for further administrative and legal action, the State Offices evolved another part of the adjustment technique which may be called the formal hearing. This may be distinguished from the office interview and the State Adjustment Board hearing in that it was essentially a last opportunity to appear before a member of the State Office staff and make an adjustment of the case.

When investigated complaints had reached the stage where it was felt that little more of an administrative character could be done by the State Office, it was determined whether the further action should be suspended, as in a limited class of codes, or the case should be transmitted to a higher agency with the recommendation that administrative and legal sanctions be invoked.

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(121) Supra, p. 66.

Partly on the suggestion of the Litigation Division's field men and to some measure on their own initiative, a number of the State Offices came to use the formal hearing as a regular step in the handling of unadjusted cases. A notice was sent to the respondent, usually by telegraph or registered mail, stating that an investigation had disclosed the violation of certain named code provisions which he had failed or refused to adjust, and informing him of a last opportunity to appear and correct the violations or show cause why further action should not be taken. The notice specified the time and place of the hearing and the person before whom the respondent was to appear.

At the hearing the member of the State Office staff, usually the appropriate compliance officer or his assistant or the Legal Adviser, informed the respondent of the general nature of the charges, and read and explained the pertinent code provisions. A request for adjustment was then made with the explanation that in the event of refusal the case would be recommended for action by the United States Attorney. Minutes of the hearing were taken and a transcript included in the file.

These formal office hearings served two purposes. A certain percentage of respondents were influenced to adjust their operations according to the prescribed standards. On the other hand, the notice took the place of the required notice of violation provided by Bulletin No. 7. The hearing before a higher ranking member of the staff, after contact had been made by the Field Adjuster, served to replace the procedure prescribed in Bulletin No. 7 for a respondent to appeal the decision of the compliance officer to the State Director, and from the latter to the State Adjustment Board. (*) In the latter connection, the Litigation Division apparently felt that the granting of a hearing with notice to the respondents would tend to eliminate some objections of the courts with reference to due process of law.

One other phase of the adjustment procedure also provided an impartial hearing and a means of appeal for complainants and respondents. Bulletin No. 7 provided for the creation of a State Adjustment Board, to serve in an advisory capacity to the State Director, and to hear appeals by respondents and complainants from decisions of the State Office. (**)

This came to be an important part of adjustment procedure, since in practice the Board's use was extended beyond the rather narrow limits probably intended by Bulletin No. 7.

(*) Bulletin No. 7, p. 15. However, the replacement was not entire, especially as to State Adjustment Board hearings, as will be noted below.

(**) Bulletin No. 7, pp. 15, 16. The origin, development, and use of State Adjustment Boards is the subject of a subsequent section and will not be discussed here.

Being a voluntary, impartial agency established apart from the Compliance Division, its decisions carried an inherent prestige. The keynote of the Board was impartiality.

The majority of the cases referred to the State Adjustment Boards (and also the Local Adjustment Boards) were ones involving disputed questions of fact. It was each Board's function to determine the facts in the particular case before it and then to reach a decision as to the adjustment required, in the event violations were found.

Because respondents generally regarded the hearing before the Board as a semi-judicial proceeding, it followed as a natural consequence that the decision of the impartial agency carried much weight in influencing the adjustment of cases. Moreover, this value as a part of the adjustment technique extended even further. Many respondents were sufficiently awed by the proceedings before what was considered a higher tribunal that they preferred to adjust their cases rather than allow them to be referred to the State Adjustment Boards for hearings.

There has been stated a description of the procedure and general methods followed in adjusting cases. In applying these methods successfully the use of practical psychology, tact, and other intangible personal qualities was of paramount importance. More often than not the character and quality of the field personnel was the determining factor in successful compliance work. It was necessary that the regular means of adjustment not only be used skillfully, so as to attain the best results, but that they be augmented by whatever devices the ingenuity of the State office staffs could conjure.

The complicated nature of the problem of regulating the everyday economic relations of so many people naturally necessitated the invention of ways of making the procedure provided adaptable and effective under local conditions. These supplementary adjustment devices were so many and varied that a discussion of them will not be attempted at this point. The more important ones will be mentioned in a subsequent chapter on the problems arising out of the settlement of complaints.

Without entering into an analysis of complaint statistics it may be stated at this time that 50,240 cases of labor violations were adjusted by the state offices against 3,673 which were referred to higher authority because the state offices were unable to adjust them. About half of the latter number were eventually adjusted by the Compliance Division in Washington or by Regional offices. There were 19,674 trade practice violations adjusted by the State offices and 2,950 referred to higher authority.

Section 7 - Non-disclosure of the source of complaints. The instructions to field offices, it has been shown, were clear that the source of complaints was to be kept strictly confidential unless the complainant gave express permission for the use of his name. (124)

(124) Supra, pp. 58-59.; Office Manual III - 4121.011

The immediate reason for this rule was, of course, that the disclosure of the complainant's identity often lead to measures of retaliation by the respondent, especially in the case of labor complaints. (*)

The importance of this fact to the compliance program lay in the basis of proceedings, the filing of complaints. Since the initial step in the procedure was the entering of a complaint, it was essential to promote the willingness of employees, competitors and others to report violations.

However, as long as the field offices were undermanned, and as long as they were forced to follow the procedure of notifying the respondent of the contents of the complaint and of accepting his explanation, no satisfactory progress could be made. Either further efforts on the case would have to be dropped, or the complainant would be called upon to support his allegations. In the latter case, of course, and also even sometimes where the complaint was closed, the respondent could readily ascertain the source of the report.

This consequence of the complaints procedure resulted either in making the compliance officials appear ridiculous or in deterring other employees from complaining, usually both. The ramifications of this problem were soon seen by field officials and remedial steps were taken wherever possible.

This is reflected in the treatment of anonymous complaints. The original rule that complaints of PRA violation before the Local Compliance Boards had to be signed, was changed on October 19, 1933 to make action on anonymous complaints discretionary with the District Compliance Directors. (**) The latter was reiterated in Bulletin No. 7. (***) But two days after the issuance of Bulletin No. 7, however, it was thought necessary to clarify the rule and by inference to urge the handling of anonymous complaints except where palpably false or unfounded. (****)

With the addition of Field Adjusters to the State Office staffs, and the development of their use, it has been shown that modifications were made in the procedure of handling cases. (*****) Thus, investigation came to include inspection of the entire payroll, and the use of office complaints and mass compliance methods became increasingly popular. By changing to these methods of approach in the handling of violations, the source of information automatically tended to become impersonal. This was found to be the most successful way of dealing with the problem, although it in turn was handicapped by the absence of adequate records in numbers of cases and by the lack of legal authority to make such inspections.

(*) This entire subject of protection of complainants' identities was an outstanding problem of the Compliance Division and is so discussed in Chapter VII, infra.

(**) Supra, pp. 51, 52

(***) Bulletin No. 7, p. 11

(****) Field Letter 48, p. 1. See also Supra, p. 63.

(*****) Supra, pp. 63-68, 69-72.

This unofficial method of meeting the issue was supplemented on May 15, 1934 by the issuance of Executive Order 6711, which prohibited under penalties of fine and imprisonment the dismissal or demotion of employees for filing complaints or giving evidence in connection with code violations. Since we are primarily concerned here with the effect of the protection of complainants' identities on the procedure followed in the field in adjusting cases, however, a discussion of the application of this order will be left until a later chapter.

As an outgrowth of the development of compliance procedure, it became the practice to withhold the name of the complainant at all costs. Thus, there was seen the situation, incongruous with our basic legal conceptions, that respondents were told that they had been found to be in violation of their respective codes but were not informed as to exactly what particulars. With the statements of employees always a prime source of information under the complaints plan of procedure and also under the mass compliance system where records were lacking, it was practically impossible to protect the source of complaint and at the same time to name the specific employees with regard to whom the violations had been committed.

This presupposed an almost implicit confidence in the impartiality of the NRA, a feeling which was not always present. On the other hand, many respondents resented what they considered to be star chamber proceedings, feeling that had the right to face their accusers, or at least be informed as to the exact particulars of the violations charged. It is recognized that this attitude by respondents was partially fallacious, since except in the case of large employers, they were ordinarily in a position to know how their businesses were conducted. Nevertheless, that feeling was to some measure the genesis of the reaction against NRA which so manifested itself during the last few months under the codes.

Therefore, the requisite confidence with which the source of complaints was treated was important for two reasons. There was, in the first place, a troublesome administrative problem created, which had to be met. In the second place, the observance of this cardinal rule of secrecy was a large motivating influence in the development of the methods and technique of investigating and adjusting violations. In the latter respect, the resulting encroachment on fundamental legal principles has already been mentioned.

However, while the practice of refusing to disclose the source of information lead to resentment on the part of respondents and was regarded in some quarters as a dangerous invasion of constitutional rights, some relief from this opinion was found in the provision for hearings before impartial boards.

These agencies which were known as State and Local Adjustment Boards, were designed primarily to hear appeals from the decisions of the various State Directors and their staffs. (*) Through their intervention it was possible in a large proportion of such cases both

(*) A discussion of origin, purpose and use of these boards is contained in the next section.

to protect the complainant's identity and at the same time retain the respondent's good will and confidence.

It should be made clear, however, that the attitude of respondents described in the foregoing paragraphs was by no means universal. There were a few of the employers who were able to understand and agree with the need for keeping the source of information confidential. They recognized the inherent limitations of the complaints plan of procedure and realized that its success depended to a large degree on their cooperation. They also took cognizance of the fairness of the rule of confidence, since as a corollary to it, the field offices were instructed not to give any publicity to the fact that a complaint had been filed against a particular respondent. (*) The latter instruction, however, being not so essential to the conduct of compliance activities, never received the strict application imposed on the protection of the source of complaints.

(*) Bulletin No. 7, p. 7

Section 8 - Hearings by Local and State Adjustment Boards. The idea of a system of voluntary, impartial boards to assist in the handling of complaints of violations was not new with the provision for State Adjustment Boards by Bulletin No. 7.(*) As early as September 11, 1933 there had been announced the establishment of a system of Local Compliance Boards to handle complaints and petitions for exemption under the PRA. These earlier boards were so constituted that, generally speaking, they were supposed to reconcile the conflicting interests of the employer, the worker and the consumer.

Moreover, some such type of agency was apparently contemplated when the National Industrial Recovery Act was passed, for Title I, section 3(a) authorized the President "to establish such agencies, to accept and utilize such voluntary and uncompensated services" as he might deem necessary.

During the experimental stage of the field offices from October, 1933, to January, 1934, it became apparent that a number of improvements in the compliance field organization were needed. Included among these were the needs for a better defined procedure and for a more adequate personnel. To fill partially both these requirements there was provided a system of impartial, voluntary agencies to supplement the activities of the regular field organization.

In a letter, dated January 30, 1934, to the new State Directors and in Bulletin No. 7 (issued two days later), it was announced that a State Adjustment Board would be established in each state as part of the permanent compliance system.(**) The purpose of these boards was to create an orderly procedure for the hearing of appeals by those parties dissatisfied with the decisions of the State Directors or their staffs. They were also to hear cases referred by the State Directors and were to serve purely in an advisory capacity to the latter.(***)

Such was the apparently limited scope of the Adjustment Boards. With experience in the use of this type of agency, however, their utility was found to extend much further and they came to be an important adjunct of the governmental code compliance system.

The first State Adjustment Boards were organized and began to function in February, 1934. Their number and location was made to depend upon the volume of cases submitted and on local needs.(****)

Inasmuch as the Boards were to serve as a forum for those dissatisfied with the State Offices' decisions, it was imperative that they be truly impartial. Therefore, they were composed of equal representation from employers and workers, with an impartial chairman to represent the

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(*) Bulletin No. 7, pp. 15-16.

(**) In NRA Studies Special Exhibits Work Materials #83

(***) Bulletin No. 7, pp. 15-16.

(****) Ibid., p. 15.

public, agreed upon by the other members and appointed by the President. (*) In this connection, the care with which the various State Offices supervised the selection of these Adjustment Boards was an important factor in determining their usefulness as an impartial agency, since obviously the members had to be of a fairly high type, calculated to command the respect and confidence of both complainants and respondents.

The members of both State and Local Adjustment Boards, described below, served without compensation. The staff of the State Adjustment Board consisted of an Executive Secretary, who was the State Office Executive Assistant, the Legal Adviser, and such members of the clerical force as were needed.

With the termination of Local Compliance Boards and the appointment of Resident Field Adjusters in June, 1934, there were also organized local boards in the more important communities of each state where they could be efficiently and economically assisted by the local NRA representative.(**) These Local Adjustment Boards, were selected and constituted in a manner similar to the State Adjustment Boards, except the chairmen were appointed by the State Directors. In many instances the membership was drawn from the old Local Compliance Boards, but in such case, only after the labor and industry groups had given their endorsements. These Local Boards had the same functions, but were generally subordinate to the State Boards.

The majority of the cases referred to the Adjustment Boards concerned violations of wages and hours and in very few instances was it felt necessary to submit trade practice complaints. Therefore, the larger percentage of cases presented may be divided into the following types:

(1) Where the complainant or respondent was dissatisfied with the findings of the State Office.

(2) Where the field office felt it was advisable to submit a case to the Board for the purpose of solving a difficult factual situation or to determine a method of arbitration.(***)

(3) Where the Compliance Officer or State Director felt that the psychological effect of a hearing before an impartial body would facilitate adjustment.

(4) Where it was felt the amount of restitution due might be reduced because of peculiar conditions or because of the financial inability of the respondent to pay back wages in full.

(5) Where it was felt that a hearing before the Board would strengthen the case for its later reference to the appropriate Compliance Council or United States Attorney.

(*) Ibid., p. 16; see also note (**)

(**) In NRA Studies Special Exhibits Form Materials #7.

(***) Note that these two classes enlarged the original scope of the Boards' functions as laid down in Bulletin No. 7.

It is seen that the latter three classes were later developments in the types of cases considered by the Boards. The category mentioned in paragraph (4), compromise cases, formed a large proportion of the work, following the issuance of Field Letter 125 on June 13, 1934. In the latter instructions it was provided that in all cases where less than full restitution was sought the adjustment had to be approved by the State Adjustment Board.(*)

The remaining two additional types of cases were also included in Field Letter 125 in defining the jurisdiction of the Boards. It was there stated that all cases which could not be adjusted in accordance with the standards set forth therein (**) as well as cases in which there was wide conflict in statements of facts should be referred to the State Adjustment Board.(***)

Thus, it is seen that the use of the Adjustment Boards as contemplated by Field Letter 125 covered a much larger number of cases than was described by the original provision of Bulletin No. 7. By the time the field offices had entered on their third stage of development, in June, 1934, it had been discovered that the State Adjustment Board hearings formed an important part of the adjustment technique.

There were three chief values to the system. A number of troublesome cases in which the facts were so obscure as to be almost impossible of definite proof were amicably disposed of through hearing and arbitration by the Boards. There was thus a physical relief of the extreme pressure of work on the field offices. In the second place, the psychological effect of a hearing before an impartial agency, whose members were drafted from private life, was an important factor in bringing about the adjustment of difficult cases. This was a potent influence on the gaining of voluntary compliance, particularly in the case of smaller operators. Finally, a certain orderliness was injected into compliance procedure, and the advice and recommendations of persons not officially connected with NRA nor so amenable to governmental regulations served as a useful, steadying influence on the development of compliance policies and practices.

The original provisions concerning the use of State Adjustment Boards were silent as to the procedure to be following in hearings and as to the manner in which cases were to be presented. However, experience in holding these hearings showed the necessity of formulating some standards of practice. Therefore, in order that cases might be disposed of most expeditiously the following outline was laid down by Field Letter 125, and generally followed by the State Offices.(****)

(*) Field Letter 125, p. 5; Supplementary Memorandum No. 1 (to Bulletin No. 7) p. 4. This power, however, was removed by Field Letter 194. See discussion of procedure for compromise cases in next section.

(**) See supra, pp. 23-26

(***) Field Letter 125, p. 34.

(****) Field Letter 125, pp. 34-35.

Arrangements were made for cases to be heard according to a fixed schedule. Both respondents and complainants were invited to be present and to bring their witnesses, except that where deemed expedient, the parties were heard on different days. There was no instruction as to the rule to be followed in selecting cases for presentation to the Board, the matter being left to the determination of the particular office.

A brief outline of each case was usually given each member prior to the hearing. Some offices found it advantageous to require the Field Adjuster submitting the case to prepare a comprehensive report and analysis of the file, both better to acquaint the Board with all facts in the case and to minimize any tendency on the part of the staff to abuse the Board's services. This last was a later development and the practice of requiring such comprehensive preparation of the file was followed in only a few of the offices. In addition to the factual outline mentioned above, the Field Adjuster or Labor Compliance Officer often appeared before the Board to give additional relevant information.

Having become acquainted with the general facts and the issues involved in a case, the parties and their witnesses were heard. Here there was little uniformity. Some Boards heard each party and each witness separately, some allowed the witness to testify in each other's presence, but the majority followed both courses, depending on the conditions arising in particular cases. Witnesses ordinarily did not testify under oath. No formal rules of evidence were followed, although the questioning was limited to pertinent issues and was usually conducted by a member of the Board.

Here it is important to note that each Board established its own rules of procedure, none of which was inflexible, for the conduct of hearings. Meetings were more in the nature of conferences for arriving at the facts on which to base an adjustment, rather than in the character of trials. These hearings were usually private, although Code Authority representatives were allowed to be present to offer advice. However, it was within the discretion of the Board to make any hearing open to the public. (*) But few public hearings were held, however, and where used with care and discretion they were found to be of value in effecting adjustments. Their chief effectiveness lay in the fear of publicity on the part of respondents.

Decisions were reached by the Boards usually in executive session immediately following the hearing. While technically the decision had the force only of an advisory opinion to the State Director, as a practical matter these recommendations were followed almost a matter of course except in a very small percentage of cases. Minutes of each meeting were kept by the Executive Secretary, although an exact transcript of the testimony was taken in only a very small number of cases.

Reports submitted by fifty-one of the fifty-four State Offices following the termination of compliance activities show a consensus in favor of the Boards' usefulness as part of the adjustment machinery, al-

(*) Field Letter 125, p. 34; Field Letter 160 (September 12, 1934), p. 4.

though their value necessarily varied according to the individual experience of each office. The caliber of personnel was generally found to be the determining factor and the greater care with which the membership was chosen perhaps accounts for the larger success of Adjustment Boards over Local Compliance Boards.

On the basis of these reports from the State Offices it is estimated that 3,000 cases were referred to State and Local Adjustment Boards throughout the country. (*) The number considered varied greatly from state to state, with the largest number, 451, being heard by the Philadelphia, Pennsylvania State Adjustment Board, which used three panels of members.

The coordination of the Boards with the compliance program is well illustrated by the statistics obtained from a representative sample of eighteen offices. (**) These figures show the disposition of cases handled by both State and Local Adjustment Boards in the states selected. Practically all decisions were unanimous and but one and one-half percent were overruled by State Directors. This is highly indicative of the close cooperation existing between the State Offices and the Boards.

An analysis of the disposition of the 1,413 cases handled by these eighteen sets of Adjustment Boards, slightly less than half the total number considered, shows that violations were found to exist in eighty percent of the cases. On the other hand fifteen and one-half percent were rejected either for lack of evidence, on a positive finding of no violation, or because the Board felt it had no jurisdiction. But four and one-half percent of the cases referred were pending on May 27, 1935 with no action having been taken and the question of compliance undecided. The smallness of the latter number is accounted for by the fact that the activity of the Boards decreased considerably in the spring of 1935, after the power to approve compromises had been removed by Field Letter 194, and with the growth of the practice of dropping certain types of cases by the field offices. This will be discussed further in the next section.

The usefulness of Adjustment Boards as part of the adjustment technique is manifested by the large number of violations which were either adjusted in full or were settled on a compromise arrangement. Of the 1,126 cases in which violations were found, fifty-five and one-half per cent were adjusted in accordance with regular standards and eighteen and one-half percent were compromised, a total of seventy-four percent. This number is all the more striking when it is remembered that the cases referred to the Boards were the more difficult ones, where previous attempts at satisfactory settlement had failed.

(*). A table showing the number of reported cases by State Offices is included in the appendices. For the purposes of these statistics where a number of complaints were handled as a single case, only one has been counted.

(**) This table is included in the appendices.

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(**) This table is included in the appendices.

It is seen, therefore, that the Boards played an important part in cutting down the number of cases to be considered by Compliance Councils for removal of insignia or for litigation. This conclusion is emphasized by the fact that in only sixteen percent of the violation cases were the Boards unable to reach adjustments. Of the remainder, five percent of the cases were dropped because further action was not deemed advisable and five percent were pending when the Boards ceased to function.

During the course of compliance activities some difficulty was experienced in arranging meetings at times when all members could attend, thus placing a restriction on the use of the Boards. This situation was somewhat alleviated by granting the State Offices authority to appoint alternates on November 6, 1934.(*) It is felt, however, that had some measure of adequate compensation for the time consumed been provided the problem of attendance would have been largely eliminated. At any rate, the experience of the Compliance Division in the use of State and Local Adjustment Boards is strongly indicative of the advantages and value of providing a method of impartial hearings.

The sharp decrease in the use of the Boards with the spring of 1935 strongly reflected the gradual disintegration of the NRA program. An adverse press, a growing attitude of opposition on the part of industry and the public, and reverses in the courts, all heightened by the lack of clear, definite policies of action on the part of NRA, so disheartened the more conscientious members of the Boards that little enthusiasm was left to carry on the work. The field offices, meanwhile, attempted to salvage what they could of the deteriorating compliance situation by suspending action on those codes which had become for practical purposes virtually unenforceable, in order to concentrate their efforts on retaining the labor and business standards which had been gained in the larger, better organized industries. Such a course of action, temporary in its nature, left little room for the use of the Adjustment Boards. Accordingly, by May, 1935, but few Boards were continuing to function, the activity of the majority having temporarily ceased.

Section 2 - Compromising and dropping of cases. Prior to June, 1934, it has been shown, no standards of adjustment had been adopted by the Compliance Division, although some development along this line had been initiated through the experience of individual field offices. Moreover, during the major part of the seven and one-half months preceding Field Letter 113 very little emphasis was laid on the making of restitution for past violations in the adjustment of cases. While this policy of adjustment on the basis of assurance of future compliance only was soon recognized by compliance officials as unsatisfactory, the development of definite standards of adjustment was left to be shaped by the daily experiences of persons in the field who were actually engaged in dealing with code violations.(**)

(*) Field Letter 102.

(**) The development of the standards and policy of adjustment has been discussed supra, Chapter III, pp. 15-23

During this period many complaints were adjusted without any payment of back wages at all, or with restitution only to the complainant in a sum determined by conference with both parties. Thus, it was common for wage claims to be compromised by agreement between the complaining employee and the respondent, often at only a small fraction of the full amount alleged to be due. This was a natural result of the lack of definite standards, the absence of an adequate adjustment staff, and the restrictions placed on the improvement of compliance technique by strict adherence to the principle that all proceedings had to be initiated by the filing of a formal complaint by someone presumably acquainted with the facts. Moreover, Bulletin No. 7 provided that arbitration was a proper means of adjustment. (*)

This problem was much more acute in cases involving labor violations than in those concerning trade practice since in the latter type it was generally impracticable to include restitution as a feature of adjustment. The reasons for this already have been briefly stated and will be shown further in the subsequent discussion on outstanding problems in the handling of trade practice complaints.

Finally, on June 13, 1934, the Compliance Division acted to end this unsatisfactory condition in the compliance practices of the field offices. At that time there was issued a complaint manual, attached to Field Letter 125. It contained instructions on the proper handling of labor complaints and promulgated standards of adjustment, based on experiences in the field and compiled largely from the observations and knowledge of the travelling Field Representatives.

In setting up guides to be followed in adjusting cases, Field Letter 125 recognized that the practical aspects of "code administration for compliance" required some elasticity in those standards for unusual cases. Accordingly, it was provided that where there was a question as to the financial ability of the respondent to make full restitution, or where the payment of an overtime rate constituted a hardship, or where other circumstances suggested an exception from the general rule, the case should be referred to the State Adjustment Board for decision as to whether a compromise settlement ought to be accepted. (**) The chief reason for this procedure was stated to be that the aim was to obtain as nearly as possible the full amount due the employee. It was stated that a compromise was sometimes necessary to prevent the employee from receiving even less or nothing at all. (***) This provision was reiterated and made the exclusive procedure for compromising cases by Supplementary Memorandum No. 1, issued with Field Letter 125. (****)

(*) Bulletin No. 7, p. 15.

(**) Field Letter 125, pp. 4,5.

(***) Ibid, p. 4.

(****) Supplementary Memo. No. 1, pp. 4, 7. This was also repeated in Field Letter 143, p. 1.

The procedure stated in Field Letter 125 and Supplementary Memorandum No. 1 was closely followed by the State Offices in all cases where adjustment was sought at less than the full amount which had been definitely determined to be due. There was, however, a large number of cases in which the facts were obscure and in which conflicting statements by employees and respondents made it difficult to determine the degree of violation with accuracy. In such cases it was the practice for the field offices to arrive at the amount of restitution by making an arbitrary decision on the facts, which usually represented a compromise between the statements presented by the complainant and the respondent.

The line of distinction between these two classes of cases is thin. Where the amount of restitution had been determined but it was desired to accept a lesser amount because of the respondent's inability to pay in full, the case was classed as a compromise and referred to the State Adjustment Board. (*) If, however, the case was one where the evidence was conflicting and inconclusive, so that it was necessary to make an arbitrary finding of fact which attempted to partially reconcile the two opposing stories of the complainant and the respondent, it was not classified as a compromise and reference to the State Adjustment Board was made unnecessary. The latter type usually involved small employers who kept little or no records, and comprised a substantial proportion of the complaints handled by the Compliance Division. Such cases were sometimes referred to State Adjustment Boards, but only for assistance in determing the facts.

The procedure created by Field Letter 125 and Supplementary Memorandum No. 1 remained in effect until January 18, 1935. On that date there was issued Field Letter 194, which divested the State Adjustment Boards of their jurisdiction to approve compromises, and placed the sole power to authorize this type of adjustment in the Regional Directors.

The new instructions stated the policy of the Compliance Division to be not to consider violations adjusted unless full restitution to all employees was made, in addition to securing present compliance.(**) The exclusive procedure to be followed in departures from this policy was as follows: (***) Where there was an industrial adjustment agency authorized to handle labor complaints and its views on the settlement agreed with the State Director's, the latter could close the case on the compromise basis. A summary statement of the compromise and the reasons therefore had to be sent to the Coordinating Branch, with a copy to the Regional Director. Where the industrial adjustment agency and the State Director failed to agree, or where there was no such

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(*) The procedure before the Board has been treated in the preceding section. The number of such cases is indicated in a table in the appendices, note footnote p. 105 supra.

(**) Field Letter 194, p. 2.

(***) Ibid., p. 3. This procedure was repeated in Office Manual, III-4113.23.

agency, the file with a summary of the case and the reasons for the compromise recommendation in duplicate had to be sent to the Regional Director.

The Regional Director then reviewed the file, referring it to the Regional Compliance Council for recommendations and hearing within his discretion. His decision was the final NRA action except in those cases involving considerations of major policy or questions affecting industry members in other regions, in which event the case was transmitted to Washington for disposition. If the Regional Director approved the compromise the summary prepared by the State Office was sent to the Coordinating Branch with comments. (*)

Although the instructions of Field Letter 194 were explicit in stating that all cases adjusted for less than full restitution had to be approved in accordance with the procedure provided therein, actually few cases were so handled. An analysis of State Office case files disclosed that but 44 complaints were referred to Regional Directors for approval of compromise adjustments during the four months following the issuance of these instructions. (**) While allowances for error may place this number slightly higher, nevertheless the number is significant.

A partial clue to the small number of compromise cases approved by Regional Directors is the following extract from a letter to the Philadelphia Office by the Chief of the Coordinating Branch,

"The proposed adjustment need not be submitted to the Regional Director in cases which have been submitted to the State Adjustment Board because of the difficulty in establishing the facts. The type of cases which should be sent to Washington are those in which a compromise has been made on the amount due."(***)

This distinction in the definition of compromise cases was recognized in the field under the instructions issued in Field Letter 125. It is mentioned here again because many of the offices, to avoid following the procedure provided by Field Letter 194, preferred to treat cases

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(*) Several examples of summaries of compromise cases approved in accordance with this procedure have been included in the appendices to illustrate more clearly the methods used and types of cases in which compromises were recommended. Note that financial inability was often coupled with some other reason for reducing the amount of restitution.

(**) See table in appendices.

(***)In NRA Studies Special Exhibits Work Materials #85

as compromised on the facts rather than on the amount. This procedure, together with the standards stated in Field Letter 125, were clearly designed to raise the quality of adjustments in the field. Although the purpose of intended progress in raising the standards of work and in emphasizing full restitution for past violations was laudable, it failed of fulfillment because the compliance structure already had become too greatly undermined by other factors, such as the change in public opinion, the lack of a clear enforcement policy, and internal organization difficulties in the NRA.

Closely related to the compromise of cases, another practice developed out of the exigencies of the situation for relieving the pressure of work was the dropping of cases. This originally arose in connection with the service trades, where the large volume of complaints and the indeterminate status of the codes following their partial suspension (*) made the problem acute.

It has been shown in the earlier sections of this chapter that the plan of procedure provided by Bulletin No. 7 and the inadequate facilities for handling complaints in the field had resulted in congestion and a gradual piling up of work in the State Offices. The similar situation which presented itself in Washington served to emphasize the problem. Some idea of the magnitude of the burden of complaints on hand, many of them entirely untouched by the adjustment procedure, is disclosed by the periodical statistical reports of the field offices to Washington. These show that about the time Field Letter 125 was issued over 15,000 labor complaints and slightly less than 2,000 trade practice cases were pending in the various field offices.(**) These figures grew even larger in the months that followed, partly because of the standards of adjustment for labor cases created by Field Letter 125, partly because the increased use of Field Adjusters tended to stimulate the filing of complaints, and for a variety of other reasons.

The picture that presented itself, then, was field organization staffed without a sufficient number of Field Adjusters, with no experience and with little chance for training, which was charged with the enormous task of administering the provisions of 556 codes covering 2,500,000 employers. (***) This is emphasized by the fact that many field people interpreted the duty of obtaining compliance as including a positive obligation to take the initiative in searching out and correcting violations, rather than waiting for complaints to be formally filed.

This was the discouraging picture of the field offices' situation in the early summer of 1934. In the succeeding months, as the personnel became experienced and new positions were added, and as methods and techniques became more nearly perfected, the outlook became brighter. However, until the close of compliance activities the specter of a large volume of unadjusted and untouched cases remained.

(*) Executive Order 6723 (May 26, 1934); Administrative Orders X37, X50, X54.

(**) See statistical reports from field offices, files of Coordinating Branch, Field Division.

(***) See Supra p. 2.

It is a manifest truth that so onerous a burden was bound to hinder the efficiency of the Compliance organization. This restriction on the field offices was accentuated by the character of a large proportion of the complaints. A substantial part concerned the retail and service trades, which, although large in number of establishments and employees, were made up of many small units which were practically unorganized. Many such enterprises were submarginal in character, were poorly managed, and few had adequate records. Although individual cases were unimportant, each required a disproportionately large amount of the Field Adjuster's time. Virtually every practical problem of compliance was present in their handling, the lack of any reasonable ground for federal jurisdiction, a comparatively low order of intelligence among both employers and workers, the absence of adequate employment records, and their smallness and generally poor financial condition.

In dealing with this type of employer, cases against which constituted the bulk of the back-breaking load of unadjusted complaints, two courses were open . One had been indicated by the President in Bulletin No. 1 as a declaration of the policy to be followed:

"In my inaugral I laid down the simple proposition that nobody is going to starve in this country. It seems to be equally plain that no business which depends for existence on paying less than living wages to its workers has any right to continue in this country. By 'business' I mean the whole of commerce as well as the whole of industry; by workers I mean all workers - the white collar class as well as the men in overalls; and by living wages I mean more than a bare subsistence level - I mean the wates of decent living." (*)

In spite of the clearness of this statement of policy it was not followed, nor was there another policy adopted to take its place. Instead, as a direct outgrowth of the complaints plan of procedure, action was taken only against those members of industry willing to adjust their violations and against larger operators, while cases against members of these retail and service trades, who refused to cooperate or who were financially unable to comply, were dropped.

This dropping of cases was primarily a field practice, designed, however, to rid the adjustment staffs of the useless burden of unadjusted complaints, on which legal enforcement steps could not be maintained. (**)

Therefore, pending determination of the policy to be followed with respect to the industries mentioned, which was not within the power of the Compliance Division, it proceeded to meet the situation as best it could, and at the same time to force the issue.

(*) Bulletin No. 1 (statement by the President outlining NRA policies), p. 1, Office Manual V-B-1.

(**) For example, see case against Mann Overall Co., El Paso, Texas, National Compliance Board minutes, April 2, 1934.

Accordingly, on August 4, 1934 the State offices were instructed that cases of violation in the service trades where the respondent had no NRA insignia to be ordered removed need not be sent to Washington. (*) Such cases were reported as "Referred to Compliance Division", with a special notation, and the files were closed and retained in the State Office. This was followed on September 4, 1934 by a procedure for dropping complaints against small establishments which refused to comply, where the violations were not important because of special circumstances. (**) It was felt that if such complaints were allowed to remain in the files unadjusted they were a constant source of irritation and uncertainty of procedure, and constituted a real mental hazard to more important adjustment work.

The State Offices were instructed to segregate these cases in a special suspense file to be examined by the NRA Field Representatives who would authorize them to be dropped. For all practical purposes, however, the cases were treated as dropped when placed in the suspense file, since the Field Representatives were accustomed to rely upon the judgment of the particular State Office, unless manifestly wrong. There were no instructions governing notification to complainants and respondents that cases had been dropped and practices in this respect varied greatly with individual offices. This procedure continued to be followed, although it was hampered somewhat by the small number of Field Representatives and the consequent infrequency with which they were able to visit all State Offices. Since the instructions just mentioned were issued in connection with service trades complaints, it was found necessary later to make it clear that the procedure applied to all old unadjusted complaints.(***)

It was a natural step from the procedure for dropping old, unadjusted cases, to attempt to devise some means for eliminating new complaints of the same type. The Field Representatives instructed the various State Offices not to docket new service trade complaints unless they appeared on their face to be important. The State Offices also made use of a supplementary employee's statement on wages and hours to weed out illegitimate complaints and to furnish them better information before beginning the handling of such cases. (****) New complaints under the service codes were thus treated as "primary rejects" and the complainants were notified that no action would be taken.

With the establishment of the Regional Offices and the issuance of Field Letters 193 and 194 there was a change in this situation. The latter provided standards of adjustment and an exclusive method for adjustment of cases at less than full restitution, mentioned earlier in this section. This was interpreted by some persons as superseding previous instructions on the dropping of cases, but the fallacies of this viewpoint were soon recognized and the distinction between compromised and dropped cases continued.

(*) Field Letter 146, p. 2. See also Field Letter 154, p. 10 (item 64).
(**) Field Letter 158, pp.1-2
(***)Field Letter 188,p. 2
(****) In NRA Studies Special Exhibits Work Materials #33

With the closer contact between the Regional offices and the State Offices the practice of dropping unadjustable cases came more into use. The Regional Field Representatives were enabled to become familiar with local situations and with the personnel of each State Office, so that they could adequately determine the course of action to be followed in each state.

As finally developed, the class of dropped cases was based on a number of reasons for suspending further efforts at adjustment. These reasons were usually present in combination in individual cases. These cases of suspension, mentioned briefly, were: financial inability of the respondent to make restitution and comply with the code; either legal or economic unenforceability of code provisions; lack of sufficient definite evidence of violations to support Blue Eagle removal or reference to the Department of Justice (as in case of small operators where records were lacking); the existence of such general violations as to render compliance by conciliatory measures in the particular industry impossible and where legal enforcement could not be obtained (such as Wrecking and Salvage, Restaurant and Motor Vehicle Retailing Industries); closely allied to the foregoing, where the industry was engaged solely in intrastate commerce and was purely local in character; and where the modification or suspension of code provisions made it inequitable to proceed further. The application of each of the above reasons for dropping cases varied according to local conditions, some offices dropping cases after making some efforts at adjustment and others suspending all efforts under particular codes.

This disorderly handling of cases reflected the confusion growing out of the failure to enforce the codes in the courts, the indecision of heads of NRA in regard to certain questions of policy, and the consequent loss of prestige by the NRA program in the eyes of industry and the public. Its worst effect was on the morale of the field staff, which lost most of the enthusiasm and energy needed to carry on the intensive compliance program necessary to place the codes on a sound, permanent basis. It was, however, a realistic approach to the problem of conserving time and facilities and enabling the concentration of efforts on the parts of the ambitious code program capable of and worth being salvaged. This whole situation was a striking indication of the deterioration of the total compliance picture and the shakiness of the structure, with its resulting inequities as to firms willing to comply. Only one hope was left, that with the passage of the contemplated new law it would be possible to renovate the compliance scheme and to arrive at a sound basis for accomplishment of the original, basic objectives of raising the standards of employment and business practices by drastic reorganization and code revision, coupled with a strong, efficient program of enforcement. That this hoped-for solution must be regarded with cynicism as rather problematical is understandable in the light of the history of NRA during its two years of existence.

A bare summary of dropped cases follows: of a total of 118,677 labor complaints docketed, 14,663 were dropped as outlined in this section. Of a total of 36,425 trade practice complaints docketed, 5,295 were so dropped.

With reference merely to the service trades listed in Administrative Orders X-37 (May 28, 1934), X-50 (June 13, 1934), X-54 (June 28, 1934), (*) the figures are as follows: of a total of 17,761 labor complaints docketed, 3736 were dropped; of 1725 trade practice cases docketed in these trades, 645 were dropped. Naturally, with the suspension of the trade practice provisions of the codes involved all pending cases as of May and June 1934 were dropped and so listed.

(*) These Administrative Orders suspended the trade practice provisions of certain service trades.

COMPLIANCE DIVISION AND REGIONAL OFFICES

CHAPTER VI

Section 1 - Development of internal organization. NRA began as an experiment in industrial self-government. It was contemplated that the governmental administrative agencies would act only in the interim while industry became sufficiently well organized to administer its own code regulations.(*) This philosophy is largely responsible for the failure to provide for an adequate compliance machinery in the beginning. With the inception of industry codification, complaints of violations began to come into Washington and the NRA was soon flooded with them, for the approval of codes was a slow process and the program of industrial self-government lagged considerably behind anticipations.

It became apparent that a special governmental agency would have to be created to handle these complaints, at least until the Code Authorities were organized and functioning. While the National Industrial Recovery Act contained no express power to establish a Compliance organization, it was inferred from the clause "To effectuate the policy of this title, the President is hereby authorized to establish such agencies ... as he may find necessary."(**)

Accordingly, the Compliance Division was set up on October 26, 1933.(***) On that date the Administrator defined the duties of the National Compliance Director, the National Compliance Board and the Compliance Division and delegated to these agencies the authority in compliance matters which the President in general terms had delegated to the Administrator under Executive Orders No. 6173 (June 16, 1933) and 6205-A (July 15, 1933). General Johnson named himself interim National Compliance Director.

By the time the Compliance Division had been set up, sixty-three codes of fair competition had been approved by the President. These included codes for automobile manufacturing, coat and suit, cotton, silk and wool textiles and rayon, electrical manufacturing, hosiery, ice, iron and steel, lumber and timber products, men's clothing, motor vehicle retailing, retail trade, throwing, and underwear and allied products.

The paramount emphasis therefore in NRA was, and for some time continued to be, on code making. Complaints of violations of the approved codes, however, were being received daily in increasing numbers. The problem of organizing for compliance forced itself on the busy Administrator and his immediate assistants. This is not to imply that General Johnson had lost sight of compliance. In fact many

(*) The method of approach to the compliance problem is discussed in Chapter II. pp. -5-10 supra.

(**) National Industrial Recovery Act, Title I, Sec. 2(a).

(***) Office Order 40.

weeks prior to the creation of the Compliance Division he had detailed his son, Lieutenant Kilbourne Johnston, to the Blue Eagle Division, to assist in working out a compliance organization in connection with the President's Reemployment Agreement, which procedure was later adapted to code compliance.

Nevertheless over three and a half months elapsed between the approval of the first code on July 9, 1933 and the delegation to someone less busy than the Administrator of authority to deal with complaints of code violations.

In the meanwhile, of course, efforts were made by code authorities and deputy administrators to adjust violations by education and the pressure of opinion from within the industry.

In at least one industry - Lumber and Timber Products - a number of cases which had failed of adjustment were forwarded to NRA with the request that enforcement steps be taken. (*) These complaints were considered by the deputy administrator and his legal advisor and were sent to the Attorney General's Office for informal opinion. The outcome at that juncture is not apparent from a study of the files. The cases were returned to NRA, held for some time in the legal division and then mislaid. When duplicate files covering the cases had been assembled by the Code Authority the National Compliance Board and the Compliance Division were operating.

The Compliance organization as set up on October 26, 1933 was relatively simple. It consisted of (a) the Compliance Division with its twenty-six offices in the field and (b) the National Compliance Board. The National Compliance Director was head of both the division and the council.

The function of the Compliance Division was to bring about compliance with approved codes and of the PRA by education and conciliation. This function was to be exercised in both the preliminary and final stages except insofar as agencies of industrial self-government had been authorized to handle such matters. Failing adjustment, it was the further duty of the Compliance Division to obtain prima facie evidence of violation and present it in convenient form to the National Compliance Board. The Board afforded the violator an opportunity to be heard before it invoked the powers of the enforcement agencies of the government, the courts and the Federal Trade Commission. That is, the semi-judicial Compliance Board, under the Administrator, made policies and in specific cases made decisions. The Compliance Division exhausted every reasonable effort to adjust violations and prepared cases for presentation to the Board, and took the necessary administrative steps to carry out the decisions of the Board.

(*) See files of Belcher Lumber Company, Centerville, Alabama, and cases listed in National Compliance Board minutes of January 31, 1934.

Changes to be noted later brought the Deputy Administrator of the code and his legal advisor more and more prominently into the final stages of compliance procedure, (*) but in the beginning the organization was in broad outline as simple as above described.

The internal organization of the Compliance Division under Office Order 40 consisted of four branches - administrative, labor, trade practice and Blue Eagle.

The Administrative Branch handled matters pertaining to personnel, property, and finance for the Compliance Division headquarters and the twenty-six field offices, and also the distribution of orders and instructions and the receiving and consolidation of reports.

The Labor Branch was charged with the examination of files of complaints charging violations of labor provisions of approved codes to ascertain whether or not the evidence contined in a file constituted a prima facie case of violation. These files were received from the field offices and from Code Authorities. In most instances an additional effort was made to adjust the case by correspondence. This effort at adjustment still held out the olive branch, but none the less it contained the threat that, failing adjustment, the case would be referred to the National Compliance Board. Over the whole period of Compliance Division activity this so-called "last chance" letter was retained and resulted in the adjustment of about 25% of all cases referred to Washington by the field and Code Authorities. (**)

Failing to obtain an adjustment as a result of the last chance letter, the branch summarized the salient facts in the case for the convenience of the members of the National Compliance Board, and obtained the recommendation of the Deputy Administrator. On the basis of this summary given to board members in advance of a meeting, the Board decided whether or not it would set a date to hear the case. At the hearing, the evidence was presented by counsel to the Compliance Division or by assistant counsel assigned to the Labor Branch. After the hearing the Board might refer the case, through its counsel and the Legal Division, to the Department of Justice, or it might return it to the Labor Branch with instructions to obtain additional evidence or to make further attempts at adjustment, or for reference to the Federal Trade Commission for investigation.

(*) Office Order 85 (April 12, 1934).

(**) See copy of "last chance" letter In NRA Studies Special Exhibits Work Material #85

(The United States District Courts and the Federal Trade Commission are named in the National Industrial Recovery Act as the agencies to enforce the act. As a matter of fact only one or two cases were handled by the Federal Trade Commission under Section 3(b) of Title I of the Act. The time element decided the almost invariable preference given the courts. While there is no such thing as a typical FTC case, an examination of random cases made by the Compliance Division in 1933 showed that ordinarily two years or more are required from the time an initial complaint is filed with the Commission to the issuance of a cease and desist order. As an investigating agency, however, the Federal Trade Commission rendered invaluable help to the NRA. It was well established and accepted by the vast majority of members of trade and industry. Its technique was based on experience. Its investigators were better trained and better paid than those in NRA. An allotment of NRA funds was made to the Commission to cover the costs of investigations made by the latter. One hundred and seven NRA cases, several being surveys of industries or parts of industries, were investigated and reported on by the FTC.)

The Trade Practice Branch handled cases involving violation of trade practice provisions of approved codes in the manner just outlined for Labor complaints.

The Blue Eagle Branch was charged with the duty of administering the PRA. These duties were shortly assigned to the Labor Branch. (*) Other functions formerly performed by the Blue Eagle Division were assigned elsewhere. The Trade Association Section was constituted a separate Division (**) and the Insignia Section was placed under the Administrative Division of NRA proper.

Much of the procedure for handling PRA complaints was adapted to code violations and most of the personnel of the Blue Eagle Division was taken over by the Compliance Division.

A thorough understanding of the evolution of code compliance is not possible without a knowledge of the History of the President's Re-employment Agreement. (Work Materials No. ___)

In January, 1934, the field organization of the Compliance Division was expanded. (***) State Directors were appointed by the National Emergency Council, who also acted as State NRA Directors for each State. They took over the duties of the former District Directors. Continuity of administration was insured in most States by transferring personnel from the District to the State Offices. Branch offices were established in some of the populous States. (****)

(*) Compliance Division Memorandum No. 1 (Nov. 29, 1933).

(**) Office Order No. 46 (December 12, 1933).

(***) Refer to Chapter IV., supra.

(****) Branch offices were established in Albany and Buffalo, N. Y., Pittsburgh, Pa., Houston, Texas and Los Angeles, Calif.

By Office Order 85, (*) the Compliance Division was reorganized. A Government Contracts and Competition Section was created which later was constituted a separate division. (**) The Labor Branch and the Trade Practice Branch were abolished. An Analysis Branch was created which took over the personnel of the Labor and Trade Practice Branches and those functions of the two former branches having to do with analysis of cases for sufficiency of evidence and efforts at adjustment. PRA matters were also handled by this Branch. The presentation of cases before the National Compliance Board and its successor the Compliance Council thereafter was made by the code legal advisor of the code involved in each case. The Field Section was elevated to a branch separate from the Administrative Branch. A Control Section was set up in the Administrative Branch designed to expedite the handling of cases. The positions of National Compliance Director and Assistant National Compliance Director was abolished. The head of the division became Chief, Compliance Division. As under Office Order 40, the counsel to the Compliance Division continued to be a member of the Legal Division.

Section 2 - General aspects of insignia display and removal. It must be repeated that the National Industrial Recovery Act provided no administrative sanctions. The Act made the violation of a code a misdemeanor punishable by fine (***) and also made it an unfair trade practice within the meaning of the Federal Trade Act. (****) We may disregard the latter because of its non-use. (Previous chapters have outlined the popular support accorded the program, part of which at least was emotional, and the gradual waning of popular enthusiasm due to delays in bringing violators to book, but chiefly, perhaps, to the subsidance of the feeling of panic which gripped the nation early in 1933.) Some employers from the outset were non-cooperative. The sheer volume of violations made administrative penalties desirable from an enforcement standpoint. The legality of such administrative penalties must be left to the legal historian. They involve, among others, the question: May the Federal Government sanction and promote an organized economic boycott? Such administrative penalties were devised in the form of removal of NRA insignia (*****) and later by rendering violators under certain conditions ineligible to obtain government contracts. (******)

(*) April 12, 1934.
(**) See History of Government Contracts Division, NRA files.
(***) NIRA, Title I. Sec. 3 (f).
(****) Ibid, Sec. 3 (b).
(*****) Administrative Order X-A1 (October 17, 1933); Office Order 40.
(******) Executive Order No. 6646 (March 14, 1934).

The Blue Eagle, a design patented by the United States Government, was issued to employers who cooperated in the President's Reemployment program. By its display those of the public who were in sympathy with the President's program could tell where to buy. Absence of the Blue Eagle told the same public whom to boycott. Since signing the President's Reemployment Agreement was voluntary - except for the pressure of public opinion - some badge was necessary. Since also the public could not be kept currently educated to the growing number of industries placed under approved codes and in order to avoid bringing members of coded industries under the displeasure of the buying public the privilege of displaying the Blue Eagle was immediately extended to employers who were complying with the provisions of an approved code. This is at least a plausible explanation of the anamoly of awarding an employer a badge of honor for doing what the law says he must do under penalty of fine.

The Blue Eagle Insignia took two forms. One was a placard 12'x16' to be displayed in the store or plant of an employer. This later evolved into the Code Blue Eagle. The other was a label used for the most part in the needle industries where each dress, hat, suit, coat, necktie or other article of apparel was required to bear the label or approved design.

There is no doubt that the Blue Eagle in both placard and label forms had a tremendous drawing power throughout 1933. The label continued to be an effective instrument for obtaining compliance in the garment industries up to the end. This was not true of the placard.

The effectiveness of the placard in the beginning was due to a very general enthusiasm and a genuine spirit of cooperation on the part of employers as well as employees and of these same individuals and their families turned consumers. This enthusiasm required stimulation, which it received. The fervor could not be, or, at least was not, prolonged indefinitely. The period of indoctrination was too short to educate the individual to the point where he would consciously ask himself if the Blue Eagle were displayed before he would make a purchase. Nevertheless, the insignia was effective long after the first burst of enthusiasm had subsided. The removal of the Blue Eagle with attendant publicity fixed the name of the violator's establishment in the minds of many who refused to patronize an adjudged non-complier. This form of sanction was more effective in the distributive trades than in manufacturing.

The procedure for removing a Blue Eagle contemplated (a) patient efforts on the part of the field staff or Code Authority to obtain an adjustment as described in preceding chapters; (b) further efforts by Compliance Division headquarters, except in unusual cases, to obtain compliance by means of the "last chance" letter; and (c) a hearing by a three-member Compliance Board composed of a representative of labor, a representative of industry and an impartial chairman. Even in the event of a finding of violation by the Board the respondent was still given an opportunity to adjust the violation by signing a certificate of future compliance (*) and making restitution of back

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(*) For typical certificate of compliance see appendices.

The large department stores and chain stores cooperated by requiring merchandise to bear labels and the Retail Trade Code made it a violation to purchase, sell or exchange unlabelled garments, where labels were required by the Manufacturing Code. (*)

The net result was an effective instrumentality of compliance. The legal questions raised by requiring the use of labels are many and cannot be dealt with here. It was inevitable that the administration of compliance by an agency within the industry would lead to arbitrary acts in some instances. (**)

The procedure for withholding or suspending labels was laid down in Administrative Order No. X-3. (***) Code authorities or agencies set up by them were empowered to refuse labels to industry members found by them to be in violation of the code. A report of the suspension was to be sent to the Compliance Division together with a transcript of the hearing accorded the respondent within one day. By an amendment to Administrative Order X-3, inadvertently or otherwise, the time limit set on label code authorities for submitting the record of a case for review to the Compliance Division was omitted. (****) This gave rise to abuses which led to the establishment of a Label Review Officer in New York City, the center of the garment industries. This officer reported to the Compliance Division. (*****) A more precise procedure for handling label suspensions was set forth in Administrative Order No. X135, (******) and the time limit on submitting cases for review to the Compliance Division was reestablished.

Briefly, cases of suspension of labels or refusal to issue labels in the first instance by the Code Authority were subject to prompt review by the Label Review Officer and the Compliance Division and were given preferential treatment to insure an early hearing. The subject of administration of label provisions of codes is more adequately treated in Dean G. Edward's report to the Chief of the Compliance Division. (******)

(*) Code for Retail Trade, Article IX. Section 2.

(**) See Coat and Suit Code history.

(***) Jan. 17, 1934.

(****) Administrative Order X-38 (May 28, 1934).

(*****) Compliance Division Office Memo. No. 34 (Aug. 8, 1934) Administrative Order X135.

(******) February 25, 1935.

(*******) June 28, 1935 - incorporated in the appendices hereto.

Section 3 - National Labor Board Cases. In addition to the routine manner of removing NRA insignia there was a special procedure in connection with so-called "7a" cases, (*) the administration of which was intrusted to the National Labor Board and its successor, the National Labor Relations Board. The Executive Order confirming the previously appointed National Labor Board made its "findings" (presumable both as to law and facts) binding on all other administrative agencies of the government. (**) When, therefore, the National Labor Board found an employer in violation of the collective bargaining or related clause, there would seem to be an automatic finding of code violation because the statute required every code or agreement under the act to contain the collective bargaining guarantee. The penalty for code violation was loss of the Blue Eagle. The administration of the Blue Eagle was a function of NRA.

Did this make NRA a rubber stamp for carrying out the findings of the National Labor Board? In practice it did not. A certain degree of administrative latitude was acknowledged to rest in NRA as a result of conferences between representatives of NRA and the NLB. In most cases NRA acted favorably on the request of the Labor Board. (***) But in other cases it did not comply with the Board's request, as in the case of Colt's Patent Fire Arms Manufacturing Company (perhaps because the company is patentee of the Browning machine gun, standard equipment of the United States military Services) and the San Francisco Call-Bulletin (where the President later affirmed the final jurisdiction of the Special Labor Board for the Newspaper Code) in the case, (****) which was tantamount to saying the Labor Board was in error in attempting to handle the case. In the two cases last mentioned as well as in other cases NRA made decisions on disputed questions of law and policy.

The situation was not satisfactory to either NRA or the NLRB. It created Administrative difficulties, gave rise to embarassing situations and caused delays. Many so-called "7a" cases received wide publicity due to the prominence of the respondents and to the fact that the courts were prone to rule against NRA in such cases. NRA took away the Blue Eagle and also took the blame. On the other hand, the Labor Board was not always given the cooperation it desired.

The history of the relationship between the NRA and the Labor Board indicated the advisability of a separation of the so-called "7a" provision from other code provisions.

(*) A misnomer, as Section 7a of NIRA made mandatory the inclusion of hour and wage provisions and the prohibition of child labor as well as guaranteeing the right of collective bargaining, etc.

(**) Executive Order 6612-A (February 23, 1934).

(***) See files of Harriman Hosiery Co., Harriman, Tenn.; Budd Mfg. Co., Philadelphia; Weirton Steel Co., Weirton, W. Va.

(****) President Roosevelt's letter of January 22, 1935 to Francis Biddle, Chairman, National Labor Relations Board, NLRB release #261.

Section 4 - The National Compliance Board and Its Successors. The National Compliance Board was established by Office Order 40 (October 26, 1933). It consisted of the National Compliance Director, one member of the Industrial Advisory Board (appointed by the Chairman of that board) and one member of the Labor Advisory Board (appointed by the Chairman of that board). Permanent advisers to the National Compliance Board were assigned by the Legal Division of the Research and Planning Division. The Board was provided with a secretary and necessary assistants.

The duties of the National Compliance Board were, upon reference of complaints from the Compliance Division, to undertake further attempts at adjustment, recommend exceptions, remove the Blue Eagle, or recommend reference to the Federal Trade Commission or the Attorney General for appropriate action.

The Board also assumed the duties formerly performed by the PRA Policy Board, namely, the interpretation of PRA, the granting of exceptions from PRA and the recommendation of substitute paragraphs of the PRA to the Administrator. PRA exceptions were passed on by a subcommittee of the Board composed of the Labor and the Industry members. The Board held its first meeting October 30, 1933. William H. Davis was appointed Chairman and National Compliance Director on November 24, 1933 (*) and served until the Board was abolished. Prior to his appointment, meetings were conducted by various acting Chairman. Three assistant National Directors were appointed.

The Board met almost every day and as time went on its deliberations called for virtually the full time of its members. It devoted most of its time to hearing cases charging violation of approved codes and of the PRA, determining policies to be pursued by the Compliance Division, interpreting the PRA and passing on exceptions from the PRA. It also considered several cases involving strikes and the right of employees to bargain collectively through representatives of their own choosing. (**)

Pressure of work led to the separation of the duties of Chairman of the National Compliance Board from those of Chief of the Compliance Division (***) both of which had been held by the National Compliance Director. Arthur J. Altmeyer was made Chief of the Compliance Division.

(*) Office Order 45.

(**) See file of Ford Motor Company, Chester, Pennsylvania.

(***) Office Order 85, (April 12, 1934).

Without warning the National Compliance Board was abolished May 21, 1934. (*) The Chairman of the Board was under attack by the Philadelphia Record and other pro-labor journals because of his handling of the Budd Manufacturing Company case, a case which never should have been referred to the National Compliance Board inasmuch as it involved a question of collective bargaining and the National Labor Board was in operation at the time. It is also generally supposed that the actions of and statements emanating from another board - the Review Advisory (Darrow) Board - gave the Administrator a distaste for boards in general.

The abolition of the National Compliance Board and the transfer of all its functions to the Chief of the Compliance Division created a problem. The administrative duties of the Chief of the Compliance Division called for his full time and overtime. It was physically impossible for him to sit all day hearing cases and perform his other duties. Dr. Altmeyer protested the abolition of the Compliance Board (**) but the Board was not revived.

The situation was met by the Chief of the Compliance Division requesting and authorizing the members of the abolished National Compliance Board to serve as counselors until further notice. The counselors comprised the Advisory Council, Compliance Division NRA and served under that name from May 23, 1934 to June 8, 1934. It was the same board with the same duties, except that responsibility for decisions was placed on the Chief of the Compliance Division whose other duties prevented him from being more than an occasional visitor with the Advisory Council during its deliberations.

The name of the Advisory Council was changed to Compliance Council, NRA on June 8, 1934 because of confusion resulting from the existence of several other advisory boards.

The burden of work placed on the Compliance Council gradually increased until it became apparent that one council could not handle all the cases arising everywhere throughout the country. The choice was between creating additional panels or decentralizing the work into regional councils. The latter course finally was taken with the establishment of the Regional Office system. (***)

(*) Office Order 90.

(**) Memo. A. J. Altmeyer to the Administrator, April 22, 1934.

(***) Field Letter 190 (December 29, 1934).

Washington had become a bottle-neck. Delays were occurring in the Analysis Branch, in the Deputy Administrators' offices, in the Code Legal Advisors' offices, in waiting for a place on the docket. These cumulative delays had a seriously detrimental effect on compliance morale. Besides, considerable hardship was involved in bringing respondents to Washington from a distance at their own expense.

Early in 1935, not all on the same date, Regional Compliance Councils were set up in Boston, New York, Washington, Atlanta, Cleveland, Chicago, Omaha, Dallas and San Francisco.

The Regional Compliance Councils were counterparts of the original Compliance Council. Each consisted of an impartial chairman, a labor member and an industry member. A lawyer experienced in litigating cases was chosen as chairman because the Regional Councils had the responsibility in fact but not in theory of referring cases to the United States Attorney for prosecution and it was the desire of the Administration to prosecute only strong cases. There was also a legal advisor who performed in the regions the duties formerly performed by the code legal advisors in Washington. The secretariat comprised a secretary, an analyst, reporters and necessary clerical assistants.

Section 5 - Notice of Hearings. When the National Compliance Board, Compliance Council or Regional Compliance Council decided to hear a case, telegraphic notice of that fact was sent the respondent. He was informed that the State Director charged him with violation of a given article of a given code by paying less than the minimum wage, or whatever the allegation might be. No exact statement of the charge was made in the notice until very late in the development of compliance procedure. (*) Normally a respondent was given at least a week's notice; more, if he was located at a distant point. There were no regulations on this point.

The respondent was invited to attend the hearing. No agency in NRA could issue a subpoena.

The Litigation Division raised questions as to the adequacy of the notice both as to form and as to the time given the respondent to prepare for a hearing and also as to the reasonableness of requiring the respondent to travel considerable distances to attend a hearing even after regional councils were set up.

The only instance of a hearing away from the seat of the Board or Council is furnished by the National Compliance Board's hearing on the Ford Motor Company case held in Chester, Pennsylvania. It was necessary because the striking employees could not get to Washington. The respondent did not appear.

Postponements were allowed for cause.

Until the establishment of the regional system, no statement of the procedure followed in the conduct of a hearing was given a respondent before the hearing itself.

(*) Field letter 213 (May 2, 1935).

Section 6 - Procedure at Hearings. The procedure at hearings before the National Compliance Board and the Compliance Councils was informal. The meetings were not open to the public. Prior to decentralization the code legal advisor and frequently the Deputy Administrator of the code were present. The respondent might be accompanied by counsel or represented by counsel without himself appearing.

The Chairman, having informed himself of the nature of the case from the analysis of the evidence prepared in the Analysis Branch or from the brief prepared by the code legal advisor, informed the respondent of the nature of the violation with which he was charged. A verbal explanation of the procedure was given. It was explained that the identity of the complainant could not be revealed. If necessary the case against the respondent was presented by the code legal advisor or later, by counsel to the Regional Council, who, in a sense, stood in the shoes of the prosecuting attorney. Opportunity was afforded the respondent or his counsel to rebut the evidence of violation insofar as that evidence could be made specific without revealing the identity of the complainant. Where a violation was evident the respondent was asked to adjust the violation by signing a certificate of future compliance and, in labor cases, making restitution of wages due. The respondent was told that failure to adjust would result in the loss of his right to display NRA insignia and possibly in prosecution in the courts.

In cases of disputed facts the respondent was informed that the Board would take the matter under advisement and that he would be informed of the decision. Usually decisions were made promptly after consultation among board members and counsel after the respondent had withdrawn so that the latter could be informed of it within an hour or at most a day after the hearing. A small proportion of the cases did not lend themselves to this prompt handling.

If a respondent failed to attend the hearing a decision was made on the record.

The secretary of the board took notes of salient points which were incorporated in the minutes of the meeting, but with one or two exceptions, verbatim reports were not made.

The procedure briefly outlined herein was that followed by the National Compliance Board and the Compliance Council. Variations occurred, of course, after the nine Regional Councils were created depending largely upon the chairman and other board members. For example, one council for a time discussed the evidence and reached its decisions in the presence of respondents. The Compliance Division, however, reviewed copies of the minutes of all Regional Councils which had a tendency to bring about uniformity of procedure and adherence to precedents set by the National Compliance Board and the Compliance Council.

A manual of procedure was prepared for the Regional Councils on December 10, 1934. This was later modified and re-issued attached to a field Letter. (*)

Upon a finding of violation by the National Compliance Board or later by the Compliance Council or by a Regional Compliance Council and failure on the part of the respondent to adjust the violation, the Board or Council recorded its decision in its minutes and instructed the secretary to inform the respondent to cease displaying the Blue Eagle and to surrender to the local postmaster all NRA insignia in his possession.

Office Order 40 gave the National Compliance Board authority to "remove the Blue Eagle". Office Order 79 (**) provided "The (National Compliance) Board will make final decisions on the issue of the right to display the Blue Eagle." Nevertheless all telegrams removing Blue Eagles were sent over the name of the Administrator or later of the National Recovery Board. (***)

At this stage it was customary to refer the case to the Litigation Division with the recommendation that legal action be taken.

While the above described procedure may be said to have worked exceedingly well in a practical way so far as it went, due in large part to the high calibre of the Board members, it had its obvious defects. A respondent in the usual case had to come a considerable distance to obtain a hearing. He was not and in the nature of things could not be confronted by his real accuser and cross-examination of witnesses in the ordinary case did not exist. After the abolition of the National Compliance Board the hearing was before a body that had only advisory powers. In the long run respondent was deprived of property rights -- the right to display the insignia or use labels -- by an official who had not heard the facts. For purposes of appeal there was no transcript of the hearing.

Section 7 - Evidence. No strict rules of evidence were applied by the National Compliance Board or its successors. Previous chapters have described the evolution of the material in a file from merely the complainant's statement plus sundry correspondence with the respondent down to reports of field adjusters, and, in some instances, records of hearings before State Adjustment Boards.

The difficulty of obtaining affidavits from the complainant or his fellow employees pervades the compliance picture from beginning to end. The Litigation Division always complained that the cases received from the Compliance Division were inadequately prepared and that an inordinate burden was placed on its trial lawyers in obtaining evidence

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(*) Field Letter 199 (February 13, 1935).

(**) March 26, 1934.

(***) Note p. 113 supra

that would stand up in court. The view of the Compliance Division was that it was impossible with the staff provided to prepare each case as though it were going to be prosecuted. The statistics seem to support the position of the Compliance Division. A total of 155,102 code cases were docketed by the state NRA offices. Only 1435 cases were referred to the Litigation Division. A better picture is obtained by eliminating cases where no violation was found upon investigation and those pending at the time of the Schechter decision. Accordingly, there were 89,872 valid complaints handled to a conclusion by the Compliance Division and its field offices. Only 1435, or considerably less than 2% were referred for litigation. Had the Compliance Division sought to implement each file with the evidence desired by the Litigation Division in the other 88,437 cases, or even in the 7136 cases ultimately docketed by the National Compliance Board and the Compliance Councils, it would have needed a vastly larger field staff and an enormous amount of work would have been performed that would have served no good purpose.

In the end, however, the Litigation Division set the standard that a complaint file must contain at least one affidavit of a person who had knowledge of the facts in a violation before it would accept a case from the Compliance Division. (*) Unquestionably sworn statements in the record of a case were desirable to support a finding of violation for Blue Eagle removal on the one hand and for a finding of no violation and dropping the case on the other. What was possible of attainment with a field staff, which at its height included fewer than 400 adjusters, is another matter.

Section 8 - Appeals. No specific procedure was outlined for taking appeals from the decision of the National Compliance Board or its successors until July 16, 1934, (**) and no encouragement was given respondents to appeal such decisions either before or after that date.

It was tacitly admitted by the Board that appeals could be taken to the Administrator, and a few such were heard by him. In at least one instance the Administrator reversed the Board's decision without consultation with the Board. (***)

After the abolition of the National Compliance Board (****) and the transfer of its functions to the Chief of the Compliance Division, an appeal from the Compliance Council's decision naturally was taken to the Chief of the Compliance Division. Theoretically it was his decision anyhow, although he did not have the benefit of the arguments and evidence adduced at the hearing before the council. Presumably an appeal would still lie from a decision of the Chief of the Compliance Division to the Administrator.

(*) Supra, chapter V, section 5, "Technique of investigation."
(**) Office Order 105.
(***) Loft, Inc., New York, N. Y.
(****) Office Order 90 (May 21, 1934).

Some time between June 1 and June 14, 1934 (*) the position of Assistant Administrator for Field Administration was created. The Chief of the Compliance Division reported directly to him. This interposed another step in the possibilities of appealing decisions.

More or less at a tangent to this hierarchy of executives who could entertain appeals from decisions of what had now come to be The Compliance Council was the Industrial Appeals Board. It was created July 16, 1934 (**) and was authorized among other things to:

> "Hear and recommend to the Administrator the proper disposition of : Complaints concerning NRA or any agency or branch thereof, especially those alleging that code provisions are designed to or tend to eliminate, oppress or discriminate against small enterprises, or to favor monopolistic tendencies; and complaints of non-compliance."

The Industrial Appeals Board was its own judge of what appeals it would accept. In the ten months of its operation it took jurisdiction in 84 cases appealed from the decision of the Compliance Councils, 15 of which were pending hearings on May 27, 1935.

The position of Director of Compliance and Enforcement was created November 21, 1934. (***) So far as appeals are concerned it was merely a change in title from that of Assistant Administrator for Field Administration.

In spite of these possible steps of appeal, no orderly workable procedure was ever created.

Section 9 - Development of analysis and Review procedure before hearings - Analysis Branch. Preliminary review and examination of unadjusted complaints filed with the Compliance Division was the only feasible procedure by which alleged code violations could be prepared for NRA compliance and enforcement machinery. A number of important developments in the code administration program of NRA strongly emphasized the need for such procedure.

The number of complaints to be acted upon by the Compliance Division increased to such an extent that it was incumbent upon NRA to provide for an adequate method for handling of such cases. Many of the alleged violations had been investigated by NRA State Offices or by Industrial Agencies while others were original complaints from employees or other interested persons which were unsupported by substantial evidence.

There was also an apparent need for a close coordination of effort of the several agencies responsible for proper code administration, namely, the Compliance Division, the National Compliance Board,

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(*) Office Order 92 (undated)
(**) Office Order 105.
(***) Office Memorandum 309.

the Legal Division and the Industry Divisions.

By the beginning of the spring of 1934 it had become apparent that the success of the codes must depend in the final analysis on the methods of their administration and enforcement. This realization took the form of an attempt by an Office Order to reorganize the compliance and enforcement machinery of NRA along more efficient lines.(*)

The Order outlined in Section I the responsibility of Deputies in code administration by stating, "from the date of this Order, each Deputy will be responsible to his Division Administrator for prompt action on complaints of violation of the codes assigned to him".

Section II of this Order provided that the field offices of NRA under the supervision of the Field Branch of the Compliance Division, were organized as a service for all industries whose code authority organization was inadequate to carry out the field contact work necessary for proper code administration. There was also included in this section of the Order an important statement of policy in the following words, "However, it is not intended that the Compliance Division is to undertake the administration of all codes for compliance and enforcement. This remains the responsibility of the Code Authority, the Administration Member, and the Deputy and Division Administrator for each code."

The general policy on procedure to be followed in the handling of compliance and enforcement matters by NRA was outlined in Section III of this Order. Its purpose was clearly stated as follows: "In order to insure prompt, efficient and coordinated action on the part of Code Authorities and their agents, the Compliance Division and its agents, Administration Members, Deputy and Division Administrators, and the Legal and Litigation Divisions". Section III defined the part which each Division was to take in the compliance and enforcement activities on transcripts and unadjusted complaints submitted to Washington.

A specific procedure for handling such cases was outlined in Section III A of Office Order 79. All transcripts of cases in litigation, unadjusted cases and original complaints involving alleged violations of NRA codes and agreements were to be routed to the Control Section of the Compliance Division. The responsibility of sorting and acknowledging the complaints and of returning to their sources all obviously erroneous or misdirected complaints was placed in that Section. It was also the duty of this Section to jacket and control all properly investigated cases and to follow up the case until proper disposition had been made of the complaint.

Briefly, the Analysis Branch was charged with the duty of analyzing all transcripts and complaints referred to it by the Control Section and of making appropriate disposition thereof as outlined in

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(*) Office Order 79 (March 26, 1934).

detail in the following paragraph.

A general reorganization of the Compliance Division was affected on April 12, 1934, "in order to coordinate its work with the Industry Division, the Legal Division and the National Compliance Board in the new program for increased enforcement". (*)

By this Order an Analysis Branch was established, the chief thereof reporting directly to the Chief of the Compliance Division. The personnel formerly assigned to the Labor and Trade Practice Branches (**) of the Compliance Division was absorbed by the Analysis Branch, with W. M. Galvin appointed as Chief of the Branch. (***)

The functions and duties of the Analysis Branch were broadly outlined in Section III A of Office Order 79 (****)but the actual work and procedure of the Branch was governed by experience and changing conditions at the direction of the Chief of the Compliance Division.

Due to the enormous volume of complaints of alleged code violations and the resultant load placed upon the compliance and enforcement machinery of NRA, it became imperative that all complaints be thoroughly examined by the Analysis Branch for the purpose of separating the "wheat from the chaff". In performing this function it may be said that the Analysis Branch constituted in fact a primary deliberative agency.

The decision as to the appropriate disposition of a complaint of alleged code violation was based on a number of pertinent factors. Primarily, it was necessary to determine if the facts submitted in substantiation of the complaint actually constituted a clear case of violation. The facts in each case were carefully considered by the analyst and if it developed that the evidence was not adequate in every respect, the file was either returned to its source with explanations as to its deficiency or the necessary additional evidence and information was requested and the file was placed in suspense pending the receipt of such information.

For purposes of coordinating administrative action it was often necessary to check with the Industry Division concerned as to the present status or contemplated revision of the code, or in some instances,

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(*) Office Order 85 (April 12, 1934), "Reorganization of the Compliance Division".

(**) Compliance Division Memorandum #1 (November 29,1933), provided in Section I, "The Blue Eagle Branch is amalgamated and consolidated into the Labor, Trade Practice and Administrative Branches of the Compliance Division....."

(***) Office Memorandum 180 (April 12, 1934)

(****)Note p.133 supra.

to secure an official interpretation of some disputed provision of the code.

If the file contained sufficient evidence to warrant action by the Administration, the analyst prepared a brief digest of the pertinent facts of the case for the information of all who had occasion to handle or review the complaint - the Chief of the Compliance Division, the members of the Compliance Council, the Counsel to the Compliance Division, the Deputy Administrators and Division Administrators and the Code Legal Advisors.

The scope and function of the digest prepared by the Analysis Branch was governed by the following statement of policy:

> "as provided in Office Order 79, the Analysis Branch of the Compliance Division makes an analysis of each unadjusted complaint. The function of this analysis is to enable persons interested in the case to determine promptly the general nature of the issues involved. The analysis also contains the recommendation of the Compliance Division to the National Compliance Board. It is not intended to be a full statement of the issues or the evidence in the case and is not sufficient as a statement of facts to the National Compliance Board". (*)

Briefly, it was considered necessary to include the following points in the digests of unadjusted complaints prepared by the Analysis Branch: (1) pertinent information relative to the respondent and the complainant, (2) code involved and the provisions alleged to have been violated, (3) extent and nature of evidence offered in substantiation of the complaint, (4) period covered by the violation, (5) relevant information as to the respondent's attitude, (6) brief history of the attempts at adjustment before the case was sent to Washington, (7) pertinent information relative to interstate commerce, (8) evidence as to display by respondent of Blue Eagle or Code Eagle, (9) history of respondent's compliance with PRA before code was effective and respondent's participation in business financed by Federal funds, (10) recommended finding of fact warranted by the evidence in the file, (11) specific recommendations for action -- removal of Blue Eagle, reference to enforcement agencies of Government, or dropping of case. (**)

Administrative policy was an important factor in determination of recommended compliance action on complaints of code violations. Outstanding examples of groups of cases affected by policy were those involving the local service trades and industries designated in

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(*) Excerpt from memorandum of Blackwell Smith to all Assistant Counsels (April 23, 1934).

(**) Memorandum of instructions to Analysts from W. M. Galvin, Chief, Analysis Branch (May 11, 1934)

Administrative Orders (*) as being exempt from the trade practice provisions of such approved codes. In like manner, administrative policy on compliance action against small establishments served as a basis for determining the appropriate recommendation for disposition of a substantial percentage of complaints submitted to the Compliance Division.

The form and contents of the digests prepared by the Analysis Branch did not change to any appreciable extent during the life of the Branch. However, it was found advisable to make minor deviations from and additions to the scope of the digests in respect to the source of the complaint, suspension of labels and recommendation of the Compliance Division to the Compliance Council.

Due to the need for expeditious handling, all transcripts of cases in litigation and unadjusted complaints involving the suspension of NRA labels by Code Authorities were given, whenever possible, twenty-four hour service by the Control Section and Analysis Branch.

The efforts of the Analysis Branch at obtaining adjustment of investigated complaints forwarded to the Compliance Division by State Offices and Code Authorities were confined to a so-called "last chance" letter sent by registered mail to the respondent. This letter advised the respondent that a specific complaint, supported by evidence, had been filed against him and requested that any explanation of his position as to the charges be furnished to the Compliance Division within a definite time limit. A suspense sheet with a definite recall date corresponding to the limit specified in the "last chance" letter was then placed on the file and compliance action on the case was withheld pending the receipt of information from the respondent or until the period of suspense had elapsed.

This effort to induce voluntary compliance without the necessity of further action by the Administration proved effective in about 25% of all cases sent to the Compliance Division. (**)

The complete file, with the digest and the recommendations of the Compliance Division as to the disposition of the case from a general standpoint of compliance, was transmitted through the Control Section to the Assistant Counsel assigned to the code involved. The complaint was reviewed by the Assistant Counsel and presented to the Deputy Administrator with recommendations on its legal phases and from the standpoint of legal policy. The Deputy Administrator then added his recommendations, from an administrative standpoint, to the record and the case was ready for presentation to the National Compliance Board (later

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(*) Administrative Orders 37 (May 28, 1934), X-50 (June 13, 1934), X-54 (June 28, 1934; all issued pursuant to Executive Order 6723, (May 26, 1934)

(**) Supra, p. 119

the National Compliance Council) by the Assistant Counsel at the call of the Secretary of the Board.

For the purpose of coordinating administrative action, copies of the digests of code complaints and recommendations were sent to the Litigation Division (on transcript cases only), Control Section, Coordinating Branch, and to members of the Advisory Committee (Compliance Council).

An important development in Analysis Branch procedure and functions was brought about by the increasing amount of correspondence with the various State NRA Offices and Code Authorities. The major portion of this work dealt with unadjusted cases which had been submitted to the Compliance Division for further action, although in the last six months of the existence of the Analysis Branch, a large volume of correspondence dealing with general compliance problems was routed to the Analysis Branch for handling. Similarly, inquiries from respondents, complainants and other interested persons relative to unadjusted cases filed with the Compliance Division were answered by the Analysis Branch.

The Contributions Section of the Analysis Branch was established by Office Memorandum 305, November 12, 1934. Its powers and duties were "to receive complaints made in accordance with Administrative Order No. X-36 by Code Authorities against members of trade or industry for non-payment of contributions; to receive protests by members of trade or industry on the subject of contributions; to acknowledge and complete the record of such complaints and protests; and to carry out the routine handling thereof in accordance with established policies".(*)

Because of time limitations it is not possible to enter into a discussion of the work of the Contributions Section in this History. The complex nature of its functions is indicated by the provisions of Administrative Order X-36 and by the fact 158,620 complaints of non-payment of assessment and 1,954 protests were handled by it.

In order to increase the effectiveness of compliance administration and enforcement and to relieve the burden placed upon the compliance and enforcement machinery in Washington, the Chief of the Compliance Division on December 8, 1934 was authorized to take all steps necessary to establish and administer a system of Regional Administration. (**)

Acting upon the authority conferred in the above mentioned memorandum, the Chief of the Compliance Division divided the United States into nine regions with offices located at Boston, New York City,

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(*) Office Memorandum 305 (November 12, 1934).

(**) Memo. from Compliance and Enforcement Director.

Washington, Atlanta, Cleveland, Chicago, Omaha, Dallas and San Francisco. Regional Directors, responsible to the Chief of the Compliance Division, were appointed and delegated certain powers and functions within their respective Regions on behalf of NRA. (*)

The decentralization of compliance and enforcement activity necessitated the transfer of unadjusted cases previously docketed by the Control Section of the Compliance Division to the various Regional Offices having jurisdiction over the adjustment of the complaints. For obvious reasons, unadjusted complaints which had been heard before the National Compliance Council, cases which were in an advanced stage of adjustment and other selected cases were held in the Compliance Division in Washington. The remainder of the docketed cases and temporary files were forwarded to the appropriate Regional Offices for action.

An analysis of the unadjusted complaints docketed by the Control Section of the Compliance Division which were referred to the Regional Offices for the period beginning December 19, 1934, shows a total of 1,403 such cases sent to the field. Of this number, the analysis indicates that 1,155 of the complaints were adjusted by the Regional Offices and the remaining 243 cases were pending as of May 11,1935.(**) In fairness to the records of the Regional Offices, it should be pointed out at this time that the 243 unadjusted referred cases represented complaints, the majority of which the Compliance Division had previously been unsuccessful in adjusting over a long period of time.

Summarizing briefly, it can be stated that the decentralization of compliance administration and enforcement was marked improvement over the old method of handling unadjusted complaints. The average length of time necessary to bring about adjustment of complaints or to initiate action on unadjusted cases was substantially reduced, and although it is impossible to judge accurately the increased efficiency due to the closer contacts with local conditions and litigation proceedings, it is submitted that the decentralization of compliance activity was in the best interests of sound administration.

(*) Memorandum from L. J. Martin, Chief, Compliance Division to Regional Directors (January 1, 1935).
In NRA Studies Special Exhibits Work Materials No. 85

(**) A table showing statistical data on docketed cases referred to Regional Offices is included in the appendices.

Section 10 - Reference of cases for Litigation. Few cases were referred for litigation, prior to the establishment of the State Compliance Offices in January, 1934. This was due largely to the fact that it had been found possible to adjust most cases by administrative procedure. Then too, the Compliance agencies were inadequately prepared to develop proper cases for reference for litigation. (*)

The State Compliance offices were established in January, 1934 but there was no immediate change of procedure in referring cases for litigation. However, Bulletin No. 7, which was issued shortly after the appointment of the State Compliance Directors, contained a statement of slightly stronger policy in regard to referring cases to the enforcement agencies of the Government. This provision of Bulletin No. 7 is quoted as follows:

> "The system outlined by this Manual is designed to insure the speedy elimination, by adjustment, of such noncompliance as is due to misunderstanding, and the prompt prosecution of all cases of wilful noncompliance. Through the various industrial adjustment agencies and the State Directors, all persons against whom complaint have been lodged will be given ample opportunity to demonstrate their desire to cooperate and to make restitution for any violation due to misunderstanding or ignorance. But cases of wilful violation, will always be forwarded promptly to Washington for reference to the enforcement agencies of the Government." (**)

Soom after the inception of the State office system, the volume of unadjusted complaints referred to the Compliance Division began to steadily increase. This increase in volume was partly due to the fact that many industrial adjustment agencies had started to functionl This was particularly true with regard to the Cleaning and Dyeing Code Authority which was sending in a constant stream of cases involving alleged violations of the minimum price provisions of the code for that industry. In fact, complaints involving this code constituted a majority of the cases received by the Compliance Board during that period.

Out of the large number of complaints referred to the Compliance Division, only a few were considered adequate for reference to the enforcement agencies. In a large number of cases the complaint involved a questionable or unenforceable provisions of the code.

The outstanding problem, however, was that of securing cases properly prepared for litigation purposes. Most of the cases received by the Compliance Division were deficient as to evidence of violations, etc. The main cause for the high percentage of poorly prepared cases can be laid to the fact that the field offices were understaffed and untrained in the type of investigation necessary.

(*) Refer to Chapter IV, supra.

(**) Bulletin No. 7, p. 7.

There was another outstanding fault with the procedure of which the field agencies were in no way responsible. It has been pointed out elsewhere that all unadjusted complaints were referred to Washington and that in the event the Compliance Division was unable to effect adjustments in such cases they were submitted to the National Compliance Board for appropriate action. Since complaints could only be referred for litigation at the recommendation of the Board, a "bottleneck" was created which was responsible for a great amount of delay in the progress of cases. In view of the large volume of unadjusted complaints it was a physical impossibility for the Board to handle all of them promptly.

These delays and lack of action from Washington were bringing in many protests from the compliance agencies. There was a tremendous amount of pressure being brought upon the compliance agencies by both complainants and competitors. These agencies in turn were insisting that they be given stronger support from Washington by having their cases acted upon promptly. Industrial Adjustment Agencies were especially critical of the procedure in Washington and in many instances were demanding that their cases be immediately referred for litigation.

It was apparent that the program would be seriously retarded unless these many shortcomings in the procedure were eliminated or greatly improved. Consequently, there were a number of important developments made in the procedure beginning the latter part of March, 1934.

Under date of March 26, 1934 a Litigation Division was established to perform the following functions:

"(a) Coordinate all NRA litigation.
(b) Examine and review transcripts of all cases turned over to the courts.
(c) In the name of the Department of Justice prepare and carry through litigated cases.
(d) Furnish information at any time on the exact status of litigation on any point.
(e) Present cases to the National Compliance Board for its recommendations on policy and disposition.
(f) Maintain close liaison with the Department of Justice, the National Compliance Board, the Industry Divisions (through assistant counsel), the Compliance Division and the Office of the First Assistant Administrator, to insure coordination of compliance and enforcement efforts." (*)

There had been a decided need for specialized attorneys capable of preparing cases as well as assisting the United States District attorneys in presenting them in the Courts. These were the principal duties assigned to the Litigation Division.

(*) Office Order No. 74, (March 26, 1934).

Shortly after the establishment of the Litigation Division there was another important development in the procedure. By Administrative Order No. 14 dated April 6, 1934, Bulletin No. 7 was amended as follows:

> "F. Reference To The District Attorney By The State Director. If at any time the State Director is convinced that the facts relative to a complaint conclusively establish a violation which the respondent shows no disposition to correct or adjust, the State Director may immediately refer the entire record in the case to the appropriate District Attorney of the United States for action instead of to the National Compliance Director as provided in paragraph D. (Page 17 above). Whenever a case is so referred, under this paragraph, the State Director will inform the respondent of such reference and will immediately transmit a complete transcript, in triplicate, of the entire record of the case to the Control Section of the Compliance Division of N.R.A."

The same Administrative Order authorized Code authorities to refer cases to District Attorneys through the appropriate State Director.

On April 8, 1934, the Administrator in explaining the above action made the following official statement:

> "Heretofore, it has been necessary, in order to coordinate the Administrations litigation and to avoid the institution of weak or unfounded cases, to have all cases referred to Washington for recommendations before proceedings were started: Now, however, the field agencies of NRA and of the Code Authorities have had sufficient actual experience to justify simplication of the procedure." (*)

This new procedure was to be effective in ten days after the issuance of the amendments to Bulletin No. 7. Meanwhile, however, State Directors and Code Authorities were requested to send immediately to the Control Section, Compliance Division all cases suitable for litigation.

The cases sent in to Washington in compliance with these requests were docketed by the Control Section and referred to the Litigation Division for further action.

On April 9, 1934 the Attorney General directed a letter to United States Attorneys in which he authorized them to accept cases submitted by State Directors and, if in their judgment such action was warranted, to institute legal proceedings in the form of a suit in equity, or both. (**)

The primary reason for this change in procedure was to expedite enforcement proceedings by lessening the "bottle neck" in Washington.

(*) Release No. 4293, April 8, 1934.

(**) Copy of letter from Homer S. Cummings, Attorney General to U.S. District Attorneys, (April 9, 1934). Attached to Field Letter 103.

There were other benefits, however, to be derived from these changes. The privilege of dealing directly with District Attorneys afforded the State Directors their first real opportunity to learn the requisites of a properly prepared case. It also gave them a better insight to NRA's legal status.

A letter dated April 27, 1934, from Chief, Field Branch, Compliance Division contained the first concrete information given the State Directors relative to the preparation of cases for enforcement proceedings. In this letter the State Directors were requested to weigh the following considerations before referring a case to the District Attorney:

"1: Whether the violation is clear and flagrant.
2: Whether the case can be effectively proved.
3: The nature of the concern which is alleged to be violating, whether it is large or small. Proceedings against large concerns will be more effective than those against small enterprises.
4: Whether the activities of the concern are in or affect interstate commerce in a manner which can be clearly proved.
5: The effect of the violation upon general conditions in the trade or industry.
6: The general feeling of the community in regard to:
(a) The Recovery Program
(b) The Code provisions involved
(c) The particular concern complained against
7: Whether removal of NRA Emblems alone would have the desired effect.
8: Proper preparation of the cases referred to the District Attorneys is half the battle. If possible, the record referred to the District Attorney should contain the necessary documentary evidence to establish violations. In any event it should contain a careful description of the violations and a complete statement of the evidence which is available or which will be available to establish violations." (*)

At the same time it was explained that it was not essential that each of these considerations be resolved in favor to prosecute, but that they were important considerations which should effect the decision. Further, the State Directors were urged to call upon their State Adjustment Boards for recommendations in doubtful cases. (**)

In May, 1934 the State Directors were furnished with a form to follow in preparing the digest to be submitted with all cases referred to District Attorneys. The digest contained the following pertinent information:

(1) Facts as to respondent: (Size of establishment, financial condition, nature of business, etc.)
(2) Facts as to violation: (Code provisions involved, nature of evidence, extent of violations, effect of violation on competitors, etc.

(*) Letter from Chief, Field Branch, Compliance Division to State Directors (April 27, 1934)
(**) Ibid, p. 2.

(3) History of case: (Attempts at adjustment, attitude of respondent, seriousness of case, etc.)
(4) Evidence of interstate commerce.
(5) Information as to display of Blue Eagle.(*)

Administrative Order X-14 contained the provision that when the State Director referred a case to the United States Attorney, a complete transcript, in triplicate, should be immediately transmitted to the Control Section of the Compliance Division.(**)

When transcripts were received in the Control Section they were jacketed, given a control number and routed to the Analysis Branch of the Compliance Division. The procedure by that branch has been described in the preceding section.

Soon after the State Directors were authorized to refer cases direct to District Attorneys, the Compliance Division in reviewing the transcripts observed that some of the offices were not using proper care in making such references. In one instance, for an example, a case involving an alleged violation of the minimum price provision of the Cleaning and Dyeing code was referred by a State Director to the District Attorney. At that time no minimum price had been established for the local area which included the city where the respondent was located. Obviously such a case could not be successfully litigated. There were other instances of a similar nature, but as the program progressed the State Offices improved greatly in this regard.

There were a large number of cases referred to District Attorneys which involved small or sub-marginal operators. In the letter from Chief, Field Branch, Compliance Division to all State Directors, dated April 27, 1934, (previously quoted in this section) it was pointed out that enforcement proceedings against large establishments would be more effective than those against small enterprises. A clear policy on this point, however, was never determined and it was responsible for much criticism directed at the Administrator's enforcement program.

After the State Directors were authorized to submit cases direct to District Attorneys there continued to be a large number of cases referred to Washington. Most of these were submitted to the Compliance Division for further attempts at adjustment or removal of NRA insignia.

From the beginning there was an apparent misunderstanding between the various Division of NRA as to the part each was to play in the compliance and enforcement program. As a result there was a lack of cooperation between these Divisions, which at times proved detrimental to the procedure. For instance, the Compliance and Litigation Divisions had difficulty in arriving at an understanding as to whether the latter should settle or adjust cases without the approval of the Compliance Council. It was alleged that the Litigation Division effected adjustments in some few cases that did not conform with the adjustment procedure of the Compliance Division. Conferences were held between

(*) See Field Letter 111 (May 17, 1934).
(**) The procedure for handling transcripts was set forth in Office Order 79 (March 26, 1934).

officials of the two divisions, but it is doubtful if a clear understanding was ever reached.(*)

There were similar misunderstandings between the Compliance Division and the Industry Divisions which tended to reduce the effectiveness of the procedure. Many of these, however, were ironed out in the later stages of the program.

In attempts to solve the problems just described two important steps were taken in late 1934. Since there was a lack of cooperation between the various divisions of NRA as well as between NRA and the enforcement agencies of the government, it was obvious that there was need for someone in position to coordinate these various functions. As a result, on November 21, 1934 the Office of Director of Field Administration and Enforcement was established for this purpose.(**)

In order to increase the effectiveness of compliance administration and enforcement a system of Regional Offices was established in December, 1934. Nine Regional Offices were set up at strategic points throughout the country. A regional Director was placed in charge of each office with authority to refer cases to the United States Attorney through the Litigation Attorney assigned to the Region.

After February 2, 1934 State Directors were not permitted to refer cases direct to District Attorneys. Instead they were required to submit them through the Regional Director and Litigation Attorney for the Region. Since Field Letter No. 196 states very clearly the new procedure for the reference of cases to United States Attorneys, it is quoted in full:(***)

"1. Reference of cases to United States Attorneys:

A. By State Directors.

It is desirable to have unadjusted complaints heard by the Regional Compliance Council so that if possible the violation can be adjusted without court action. It is also desirable before a case is referred to a United States Attorney for prosecution that the respondent's Blue Eagle be removed if he is displaying one and such action necessitates a hearing before the Regional Council. Similarly, in those cases in which the respondent does not display the Blue Eagle, but

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(*) See Memorandum of meeting held in Mr. McKnight's office, April 3, 1934 - also Memo. from A. G. McKnight to Blackwell Smith dated April 23, 1934. In NRA Studies Special Exhibits Work Material #85.

(**) Office Memo. No. 309 (November 21, 1934).

(***) Field Letter 196 (February 2, 1935).

where removal of the right to display it and consequent publicity would be effective, a hearing by the Council would also be desirable. The normal practice will therefore be a reference of unadjusted complaints to the Regional Office for a hearing by the Regional Compliance Council.

In special cases where adjustment is impossible or unsatisfactory and where immediate court action is necessary, the State Director should refer the case and the file to the Regional Office with a request that it be transmitted to the Litigation Counsel for the Region for reference by him to the appropriate United States Attorney. The State Director should also state whether the respondent displays the Blue Eagle and whether a hearing and deprivation of the right to display the Blue Eagle before reference to the Litigation Counsel is desirable. The Litigation Counsel will examine the file and if he and the Regional Director decide that court action prior to a Compliance Council hearing is advisable, he will refer the case to the appropriate United States Attorney if it is ready for prosecution. The Litigation Counsel will retain or prepare sufficient evidence in the form of copies of affidavits on which to base a hearing by the Regional Compliance Council and removal of the Blue Eagle in the event that such a hearing is held. He will also advise the State Director of the reference to the United States Attorney. The above instructions to the Litigation Counsel are supplementary to those previously issued by the Litigation Division and are not intended to supersede the latter.

B. By Regional Directors.

Regional Directors will contact the United States Attorney through the Litigation Counsel for the respective Region. Unadjusted complaints in which court action is thought desirable by the Regional Director should be referred by him to the Litigation Counsel with a request that he, after properly preparing the case, refer it to a United States Attorney. Formally, a case should not be so referred until after a hearing by the Regional Compliance Council especially when the respondent displays the Blue Eagle. In case of unresolved disagreement between the Regional Director and the Litigation Counsel as to whether a particular case should be referred to a United State Attorney, the Regional Director should report the matter to the Chief of the Compliance Division.

C. Publicity.

It is important that immediate and carefully prepared publicity be given to the reference of cases to United States Attorneys and to favorable court decisions and court action. The Litigation Counsel acting with the Regional Director and the various State Directors will prepare and give publicity to a reference of a case to the United States Attorney and to subsequent favorable decisions and court action after obtaining the approval of the United States Attorney is officially responsible for the prosecution of the violation, it is necessary to secure his approval of publicity con-

cerning that aspect of the case. Copies of all such publicity should be sent by Regional Directors and State Directors to the Coordinating Branch, Compliance Division."

The last quoted instructions remained in effect until the close of compliance activities.

Section 11 - Contribution Section. A Contribution Section was set up in the Compliance Division, June 4, 1934, (*) to handle "all matters pertaining to code contributions by members of industry to Code Authorities". J. E. Peebles was appointed Chief of the Section.

The powers and duties of the Section were more particularly described in Office Memorandum No. 305 (November 12, 1934) as follows:

"To receive complaints made in accordance with Administrative Order No. X-36 by Code Authorities against members of trade or industry for non-payment of contributions; to receive protests by members of trade or industry on the subject of contributions; to acknowledge and complete the record of such complaints and protests; and to carry out the routine handling thereof in accordance with established policy."

The same memorandum authorized the Section "to call upon the appropriate Industry Division whenever questions under a particular code" arose.

Authority for making findings of default on code contributions was given to the Section in an unnumbered special memorandum dated November 16, 1934, from W. A. Harriman, Administrative Officer of the National Industrial Recovery Board to L. J. Martin, Chief of the Compliance Division.

"Whenever there is a finding by the Chief of the Compliance Division or by the Contribution Section thereof that any person is in default in his obligation (as defined in Executive Order No. 6678, April 14, 1934, and Administrative Order X-36, May 26, 1934) to make payment of a contribution to a Code Authority, the Chief of the Compliance Division may notify such person that he has been deprived of the right to display any Blue Eagle or other N.R.A. Insignia or to obtain or use N.R.A. labels, and may notify the appropriate Code Authority to withhold the issuance of labels to such person. The Chief of the Compliance Division, without hearing or recommendation by the Compliance Council, may thereafter give notice of the restoration of any such right to such person and may give notice to the appropriate Code Authority to resume the issuance of labels to such a person."

The jurisdiction of the Contribution Section over alleged violations of mandatory contribution provisions of codes was exclusive. Field Offices of N.R.A. were instructed to forward all complaints of this nature without docketing to the Contribution Section.(**)

(*) Unnumbered Compliance Division Memorandum, copy in NRA Studies Special Exhibits Work Material #85

(**) Field Letter 164, September 21, 1934, pi; Field Letter 169, October, 19, 1934.

Office Memorandum No. 340, February 27, 1934, created a Code Contribution Board consisting of three members, the Chairman representing the Code Administration Director, one member representing the Assistant to the Administrative Officer in charge of Budgets and Bases of Assessment and third member representing the Chief of the Compliance Division. The functions of the Board were described as follows:

> "The Code Contributions Board will be responsible for all and will direct the dispositions of protests against payment of code contributions and all Certificates of Non-payment of Code Contributions filed in accordance with Administrative Order No. X-36; except that the authority to deprive industry members of their privileges either to display or use the Blue Eagle or N.R.A. Labels, or to participate in work financed in whole or in part by Federal funds, or in appropriate cases of restoring such privileges, will continue under the Compliance and Enforcement Director."

In effect, however, curtailment of discretion, functions and responsibilities of the Section was relatively small. The Board authorized the Section to continue to reject certificates from Code Authorities which failed to meet administrative standards and conferred blanket authority to handle specified type of protests. Approved codes provided for Code Authorities entrusted with the duty of administering the codes, subject to supervision of N.R.A. The Code Authorities required money in order to function. At first it was taken for granted that Code Authority funds would be obtained from voluntary contributions. By the Spring of 1934, however, it became obvious that the idea of industrial self-government brought about through Code Authority Administration of Codes was in danger of paralysis because the expected voluntary contributions were not forthcoming in many industries.

Confronted with this desperate reality resort was had to mandatory contribution provisions in many codes.(*)

The procedure to be followed by Code Authorities in demanding contributions from industry members and in registering formal complaint was outlined in Administrative Order No. X-36.

The Contribution Section divided its work between a Certificate Unit and a Protest Unit, the former to examine the validity of complaints of non-payment and the latter to prepare protests for the consideration of the Code Contribution Board and to carry out the decisions of the Board. A fuller report on the operations of the Section, prepared by J. E. Peebles, is in the records of the Field Division. It may be well, however, to point out here the extent of the activity of the Section. There were 158,620 certificates of non-payment received; 130,514 demands upon industry to pay contributions made by N.R.A; 726 Blue Eagles removed and 56 restored on recommendation of the Section.

(*) Executive Order No. 6673, April 14, 1934: Administrative Order No. X-20, April 14, 1934; Administrative Order No. X-36, May 26, 1934.

Findings of violation of mandatory contribution provisions were supplied the Government Contracts Division in 118 cases and Code Authorities were authorized to institute civil suits in 310 cases.

There was probably less legal basis for the mandatory contribution provision than for any other activity of N.R.A.

PART III

OUTSTANDING PROBLEMS OF THE COMPLIANCE DIVISION

Chapter VII - The Method of Handling Complaints

Section 1 - The complaints basis of procedure - labor violations. It was the function of the Compliance Division to administer the provisions of the various codes, where there were no agencies of industrial self-government had been authorized to perform this task. The procedure and mechanics adopted for the performance of this phase of code administration, more commonly known as "compliance", have been discussed in detail in previous chapters.

The ultimate purpose of compliance work was the obtaining of the highest possible degree of uniform observance of the codes. In the accomplishment of this aim there were two major aspects, namely, the actual investigation and adjustment of complaints, discussed above under Chapter V, and the careful and thorough education of members of industry, labor and the public so as to invest the results of the adjustment phase with a character of permanence. It is apparent that both aspects were essential, although of the two, education was the more important.

It was necessary that compliance be uniform, not only in particular industries, but among the entire national business structure, because the code program had been based on the regulation of the whole of commerce and industry. It was necessary to avoid inequities, to guard against non-compliance in one segment spreading to other lines of industry and causing a general breakdown of the compliance structure. The magnitude of this task can scarcely be appreciated by a mere perusal of figures, but some indication is given by the fact that the codification of industry included 894 codes and supplements covering 2,500,000 employers, (*)

To accomplish this gigantic goal the Compliance Division was established on October 26, 1933. (**) The compliance program was based on a procedure which depended on the filing of complaints by employees, competitors and other interested persons presumably having knowledge of violations. (***) Out of this administrative method of approach many problems arose. Since the whole compliance program was primarily a field problem, this discussion will relate chiefly to that phase.

Section 2 - Disadvantages of and objections to the complaints system.

The most potent evidence of the inadequacy of the complaints plan of procedure to accomplish the compliance goal is the history of development of compliance procedure in the field offices.(****)

(*) See note [illegible] supra.
(**) Office Order 40.
(***) See Chapter V, "Compliance Procedure in Field Offices", p. 75, supra.
(****) Chapter V, "Compliance Procedure in Field Offices", P. 75, supra.

In general, the shortcomings of the complaints system may be seen by its comparison with the purpose of compliance, to obtain the highest possible degree of permanent, uniform conformity with the law.

By its very nature, the complaints system of procedure was spasmodic, depending as it did on the reporting of individual employers. This naturally resulted in certain inequities among members of the same industries. The objection of respondents was common that their competitors were violating with immunity while they were made to suffer a competitive disadvantage by complying with the law. Added to this item of apparent discrimination among competitors was the fact that in many cases violations went unreported for long periods of time.(*) Consequently, when complaint was finally made the wage restitutions were often excessively burdensome. True, the employers were charged with the knowledge of their obligations and with the duty of observing the law. As a practical matter, however, except in aggravated and deliberate cases of violation, the requirement of large restitution was apt to cause resentment and to defeat the efforts to win the confidence, good will and support of industry.

Moreover, the use of the complaints system had a profound effect on the ability of the Compliance Division to fulfill its function of obtaining code compliance. (**) The inefficiencies resulting from the use of this system of procedure made themselves felt partially in the relatively high travel expense, which was out of proportion to the concrete results obtained. It was not uncommon for a Field Adjuster to be sent a hundred miles to adjust a half dozen complaints involving a total of 25 or 30 employees. This was particularly true in less industrialized states where the respondents might be located in small, scattered communities. It also held generally true, however, even in larger towns and cities. Taking as a hypothetical situation a short trip of two hundred miles, the truth of the above assertion will be seen. Such a trip would usually be made by private automobile and would consume two full days. By working approximately a twelve-hour day or more a fast, experienced Field Adjuster might investigate and close not to exceed ten cases in the two days. The travel expense for such a trip would be $10.00, per diem allowance would be $10.00, and the Adjuster's salary, figured at the minimum grade, would amount to $10.00, a total of $30.00. Probably fifty percent or less of these cases would be adjusted in full with restitution.

It must be understood that the expenses have been figured at an absolute minimum and the results have been estimated on the assumption the most favorable conditions were present. Actually, six to eight cases would be a good average production for such a trip. It is impossible to estimate the average wage restitution per case since the figure of $112.16 (***) for all cases handled by the field offices was

(*) For complaints statistics on periods of violations, see table XXIV, appendices.

(**) See tables VII and VIII, appendices, which disclose that the arithmetical average of time consumed in handling a case was 7 days from docketing to first action, and 44.6 days till closing, a total of 51.6 days.

(***) Derived from analysis of State Office cases. See Table X, appendices.

increased by a number of unusually large adjustments in industries not appreciably represented in a majority of states nor ordinarily found in smaller communities.

The foregoing hypothetical illustration of the relatively high expense of administering the codes under a complaints system is emphasized when it is remembered that often complaints were later received against the same respondent. This made it necessary to re-visit the employer and to retrace the steps of investigation and adjustment. (*) The obvious disadvantages of this procedure were the repetition of effort and consequent loss of efficiency and the resentment usually created on the part of the respondent at being harassed by complaints. It is true, the effect of this disadvantage on the efficiency of the field offices was allayed to some degree by the modifications of the complaints system introduced by Field Letter 125. (**) However, it was inherently impossible to so control the influx of complaints as to be able to map out a systematic handling of the compliance problems in an industry or locality.

Furthermore, the extent of the activities of the field offices was controlled by the volume of complaints filed under particular codes. The importance of this point is shown by the fact that out of a total of 118,677 labor complaints docketed by all field offices, 90,001 fell under 25 codes and their supplements. (***) Furthermore, 65,870 complaints fell under the following six codes: ((****)

Code	No. Complaints	Ratio of Employees in entire trade or industry to Complaints.
Restaurant	14,664	41.5
Retail Food and Grocery	13,620	41.3
Retail	10,228	364.2
Construction	7,977	393.9
Motor Vehicle Retailing	7,060	57.8
Hotel	4,321	57.3

These figures are prima facie evidence in themselves of the inadequacy of coverage under the complaints plan of procedure.

The above mentioned disadvantages were dwarfed in importance by the fact that the strict complaints plan failed of accomplishment of the ultimate purpose of compliance work. Handling each complaint separately, without a coordinated attack on the compliance problems of an industry or locality, it was impossible to follow an effective educational program. Such a program necessarily presupposed a planned campaign of disseminating information and the instruction of industry as to its obligations under the law. It included convincing employers of the benefits

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(*) See table V Part IV appendices.
(**) See supra, pp. 63-68
(***) See table XI, appendices.
(****) Idem. See also table XXIX, appendices. These figures on ratio of employers to complaints filed are especially significant when compared with those for Boot and Shoe, 129.8, and for Electrical Manufacturing, 441.2. The high ratios on Retail and Construction are explained by the extensive coverage of the two codes.

to be derived from compliance and the development of easy mechanics for voluntary conformity to the law, such as the installation and maintenance of adequate wage and hour records. Manifestly, the problem of education was too broad a one for spasmodic handling under individual, scattered complaints, requiring as it did uniformity of approach and a coordinated and intensive plan of activity. That this aspect of the work had to be neglected is a severe inlictment of the complaints system, for without the education of industry permanent compliance was impossible to obtain and even present conformity was made very difficult of achievement.

Likewise, experience showed that the total compliance picture was infinitely involved and complex. It was useless to attempt the adjustment of individual violations without also removing their causes, for they were then sure to recur and perhaps in more aggravated form. Thus, it was essential to ascertain whether the condition of non-compliance was due to strong competitive pressures or to misconceived labor policies on the part of the employer, etc. Here again, the fulfillment of the objective required a broad knowledge of conditions in the industry or locality and an approach to the whole problem rather than the correction of a single violation.

The objections which have been voiced are by no means all-inclusive. Attempt has been made here only to mention those which were fundamental disadvantages. These were the competitive inequities placed on respondents, the delay in correcting violations and the consequent piling up of large amounts of restitution, the concentration of efforts on relatively unimportant codes, the duplication of effort caused by repeated complaints, the increase in administrative expense, and the impossibility of achieving permanent results because of the inability to conduct an educational program or to remove the causes of violations and because the volume of work could not be controlled and compliance activities systematized.

Section 3 - Practical difficulties in use of complaints system. In addition to the disadvantages already mentioned and indicated in the foregoing sections and in Chapter V, there existed one major practical difficulty in the use of the system that is sufficient condemnation in itself of the reliance placed solely on complaints as the basis of procedure. This was the basic problem of protection of the complainant's identity. (*)

This problem presented itself immediately with the use of complaints as the basis of procedure. Quite logically, employees who complained expected not only that the violations would be corrected but that they would be protected against any measures of retaliation on the part of the respondent. On the contrary, however, letters received from complainants and reports from field offices, and even from Local Complaince Boards under the PRA, indicated strongly that the filing of a complaint by an employee was often followed by discharge or demotion.

It was realized that, theoretically, such action did not increase unemployment, because generally speaking, the vacancies thus created had to be filled. Moreover, it is unlikely that the number so dis-

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(*) A total of 352 complaints were docketed by the field offices alleging discrimination for filing complaints. Table XIII, appendices.

charged had any appreciable effect on the normal turnover in the employed labor of the country. The real problem arose from the fact that employees were deterred from filing complaints by fear of losing their jobs. Many of those who could furnish evidence of violations were loathe to do so, feeling that it was better to work for less than minimum wages or in excess of code hours than to have no job at all.

The idea was advanced among employees that the Administration was requesting everyone to report violations, but was doing nothing to protect them from discharge. Since compliance procedure was based entirely on the complaints method, it was apparent that the existnece of such an idea in the minds of the workers would result in many flagrant violations going undiscovered. Employees assumed that when they complied with the Government's request by furnishing evidence of violations, the Government would reciprocate by at least protecting them from discharge. When it was witnessed that employees were actually being discharged and that the Administration was taking little or no corrective action, they began to lose confidence in the whole compliance program.

There were four main forces operating to deter employees from filing complaints. These were the fear of discrimination, just mentioned, the desire of individual workers to earn higher pay by working longer hours (especially with pieceworkers), the employees' ignorance of rights and procedure, and lack of confidence on the part of employees in the NRA, including both distrust of local officials and a general feeling of ineffectiveness. The last two were capable of being removed by educating and instructing employees. The second could have been obviated by the maintenance of thorough, adequate wage and hour records and provision for their systematic inspection, and also by excluding the employee involved from the restitution where guilty of collusion with the employer. Fear of discrimination was by far the strongest deterring force.

Some attempt was made to remedy this situation by instructing the field offices to protect the identity of complainants. (*) This, however, was unsatisfactory in dealing with the problem. These instructions were supplemented on May 15, 1934 by an Executive Order prohibiting the dismissal or demotion of employees for complaining or giving evidence, under penalty of fine and imprisonment. (**)

While the Executive Order was difficult to enforce, it had value in its moral effect on employers and employees. However, it failed to dispose of the problem because of the impracticability of its enforcement in the courts. This is well illustrated by the consideration of one of the few cases referred to the courts under this order.

(*) Supra, Chapter V, section 7, "Non-disclosure of sources of complaints"; "Regulations for Adjustment, etc." (October 19, 1933), p. 4; Bulletin No. 7, pp. 7-8; Field Letter 125, p. 12; Field Letter 48, p.1.

(**) Executive Order No. 6711 (May 15, 1934).

Shortly after the issuance of the Executive Order a complaint was filed with the Louisiana State Office against an industry member in New Orleans, La. (*) Immediately after being notified of the complaint respondent called all his employees together and told them that unless the man who made the complaint confessed the entire shop was going to suffer. The following day the complainant was called into the respondent's office and dismissed. After many unsuccessful attempts at adjustment by the State Director's Office the case was referred to the State Adjustment Board for a hearing. The State Adjustment Board unanimously recommended that unless the respondent make full restitution and reinstated the complainant within five days, that his Blue Eagle be removed and the case be referred to the District Attorney for prosecution. The respondent refused to make this adjustment, so the State Director submitted a summary of the case to the Compliance Division with the request that he be authorized to prepare the case for prosecution. As a result of several conferences between officials of the Compliance and Litigation Divisions the State Director was requested to send in the complete file to the Litigation Division for review.

The case remained in the Litigation Division for several weeks without any action being taken. During this time letters and telegrams were constantly coming in from the State Director, the State Adjustment Board and the complainant urging that the respondent be prosecuted. The Compliance Division officials kept in daily contact with the Litigation Division and were finally successful in having that Division forward the case to the U.S. District Attorney for the Eastern District of Louisiana.

After several weeks had elapsed with no action having been taken by the District Attorney, the State Director felt that the respondent's Blue Eagle should be removed. Consequently, a transcript of the case was referred to the Regional Director in Atlanta, Georgia. A hearing was held before the Regional Compliance Council and the respondent was deprived of the right to display the Blue Eagle. The Council also recommended that the transcript of the case be referred to the Litigation Division for further action.

All during this time the original file had remained in the hands of the District Attorney. There is no record in the file as to what action was taken by his office, but apparently no legal proceedings were ever instituted.

In accordance with the recommendation of the Compliance Council the transcript of this case was referred to the Regional Litigation Attorney. No further action was taken, however, and at the time of the Supreme Court's decision on May 27, 1935, the case was on suspense in the files of the Litigation Division with the notation that "no interstate Commerce was shown".

The record of the above mentioned case clearly illustrates the difficulties encountered by the Administration in its efforts to enforce the Executive Order of May 15, 1934. In view of the fact that this was one of the strongest cases developed by the Compliance offices it also shows that the enforcement officials were skeptical of court action in cases based on this Order.

(*) See Litigation Division case files, docket no. L-457.

The gravity of this basic practical problem of protecting the source of complaints was in the fact that information derived from employees constituted the major amount of evidence of violations. (*) While no accorate and comprehensive figures exist as to the number of employers keeping adequate wage and hour records, general experience with mass compliance surveys, notably in Onio, indicate the figure to be about 30 percent. The Boot and Shoe survey, the only one of national scope, showed 68 percent of the establishments inspected maintained adequate records. This number, however, is considerably higher than average because of the high type of management encountered and the size of tne plants, the normal number of workers employed being in excess of 150 persons.

In connection with what has been said it is interesting to note the statistics of ten selected offices concerning changes in the sources of labor complaints during the several periods of the Compliance Division's history. These periods correspond roughly with the four stages of development mentioned in earlier chapters. From August to December, 1933, out of 390 complaints docketed by the ten offices, 3 percent were anonymous, 40 percent came from present employees, and 15.6 percent originated with former employees. In the next period, from January to June 15, 1934, 4117 complaints were filed, of which 6 percent were anonymous, 34.4 percent were from present employees, and 20.3 percent were filed by former employees. The suceeding period, from June 16 to December, 1934, showed a marked change. 5265 complaints were filed, of which 4.5 percent were anonymous, 27 percent minus originated with present employees, and 34.5 percent were filed by former employees. The last named source increased 117.8 percent over the number in the preceding five and one-half months period. In the last five months of compliance activities, from January to May 27, 1935, 3366 complaints were filed. Out of this number but 2.6 percent were anonymous. Present employees dropped to 13.3 percent and former employees decreased to 21 percent, due to a large increase in the volume of office complaints, including those which were the result of mass compliance surveys.

Section 4 - Mass compliance as a proposed solution. (**) In the previous pages of this history an attempt has been made to record the developments which took place in the compliance program as a result of the experiences of the Compliance Division and its nine Regional and

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(*) See table III, appendices, which shows that roughly 56 percent of complaints were filed by employees while slightly less than 19 percent of the balance were filed anonymously or by the NRA office staffs.

(**) Time limitations have not permitted a detailed study and analysis of the results of mass compliance surveys. However, there has been collected in a special appendix a selected number of reports on specific surveys and other material for further study by the reader. The general conclusions stated herein, however, are well established and are based on the various experiences of the Compliance Division in this type of activity.

and fifty-four State Offices. The course of development of compliance procedure in the field, traced in Chapter V, as well as the analysis of the complaints system presented in the preceding three sections of this chapter, disclose that the reliance placed on complaints as the sole basis of procedure was unsatisfactory.

Numerous experiments were made with shifting the basis of procedure to an inspection system, and this was found to answer many of the objections attached to the original complaints plan. These experiments, which were popularly known as "mass compliance surveys", took several forms, but were similar in that they involved the elements of mass production plus a positive activity in searching out violations and obtaining compliance.(*

Mass compliance was essentially a plan for dealing with the broad compliance problems of a related group of employers. Thus, it was possible to deal with a situation with a full knowledge of the facts and of the fundamental causes of the violations. This was the intelligent way of attacking the problem, since, as has been stated, without such a method of treatment, the solution of compliance problems by correcting the violations of individual employers had only a temporary effect.

This type of procedure was based on the dealing with a group of employers more or less as a unit. There was obviated to a large degree the objection that individuals proceeded against were placed at competitive disadvantages, since, theoretically at least, all employers in the group were inspected and were dealt with on the same basis. (**)

Moreover, being a self-initiated project, compliance activities under a mass compliance system were subject to direction and control by the administrative agency. Efforts could be concentrated on particular industries or localities or could be proportionately distributed among several groups, subject to certain mechanical limitations. This was a more efficient use of compliance facilities, since although the gross administrative expense might be increased, the relative results obtained were much higher. Little data exists for an adequate and accurate appraisal of the results under mass compliance surveys as against the adjustment of single complaints. As a striking illustration, however, figures compiled in Ohio in connection with three cities show the following record of restitution before and after surveys had been conducted:(***)

(*) A discussion of the origin of mass compliance is contained in Chapter V, section 2.

(**) In the following section there are pointed out the needs of an effective mass compliance system, to place this theory of procedure in actual operation.

(***) See Ohio State Office report on mass compliance activities, August 1, 1935.

CITY	RESTITUTION	
	Full Year 1934 (prior to survey)	Jan. 1 - May 25, 1935 (after survey)
Akron - -	$1,179.96 - -	$4,561.37
Canton - -	882.35 - -	6,156.03
Youngstown -	962.41 - -	15,647.92

While during the latter period adjustment technique had been developed, this was counterbalanced by an increased "sales resistance" on the part of respondents.

Reports from other offices show large amounts of restitution resulting from mass compliance surveys, but are not arranged so as to be so easily compared with results under the complaints system. By way of example, the Los Angeles State Office handled 489 cases under a survey conducted in the city of Los Angeles, out of which 278 were adjusted with restitution amounting to $46,476.66. The balance of 211 cases were pending on May 27, 1935. (*)

It is impossible to estimate accurately the actual cost of operating under an inspection system since there is scarcely any information now available on this point. Time has not permitted a study of the number of personnel used and needed in making various types of surveys. Moreover, it is felt the value of this data must necessarily depend on the nature of any future industrial regulations, and whether they are applicable to all or to a selected group of industries.

One of the chief disadvantages of the complaints system was that no action could be taken until a complaint had been filed and accepted as stating a prima facie case. As a result, it has been shown, violations went unreported for long periods of time and conditions of non-compliance became aggravated through neglect. Mass compliance had this advantage, that the State Offices took the initiative in searching out violations and thus tended to eliminate the piling up of violations in individual establishments. The complete accomplishment of this aim, of course, was not attained because the use of mass compliance surveys was still more or less in its experimental stages.

By changing the basis of procedure, likewise, the problem of protection of complainants' identities was greatly minimized. The source of information was made impersonal and the complainant's place was taken by the State Office staff.(**) In the proposed mass compliance or inspection system complaints would have been used only as one incidental source of information, investigation relying chiefly on the inspection of records and the interviewing of employees.

(*) See Los Angeles State Office report on mass compliance, July 24, 1935.

(**) See Chapter V, section 2, and section 7

Surveys fell into two general classes: educational surveys and compliance investigations. The former was the most widely employed, considerable experience with educationsl surveys having been had especially in Ohio. The most notable example of the latter class was the nationsl Boot and Shoe survey, beginning March 25, 1934. (*)

While the ultimate goal of the development of compliance procedure was the development of a regular inspection system, for investigating the code compliance of employers, there had to be an intermediate step. This was the educational process which is always of prime importance in the administration of regulations affecting the daily business activities of large numbers of persons. The employer had to be furnished with a copy of his obligations and convinced of the advisability of installing and maintaining time card and payroll systems which would simplify the task of checking on compliance.

Such preliminary groundwork for permanent compliance could best be done by a survey devoted to that purpose. Educationsl surveys were conducted in several of the states with marked success.

Under each of the two general classes mentioned above there were two types of surveys: by industry and by locality. The latter was used mainly to cover distributing trades, while the former was more adapted to large industrial centers. Usually a combination of both types was used.

Section 5 - Mechanics of the mass compliance system. (**) Having briefly considered the advantages of operating on an inspection, rather than on a complaints basis, note should be taken of some of the mechanics employed in mass compliance surveys.

It was important in the planning of surveys first to gather complete information on the size of the industries, the names of employers, and the past compliance experience. This entailed conferences with labor and trade groups, a study of complaints files and of available industry lists, and further conferences with members of the staff. Special attention had to be paid to peculiar characteristics of the industry, such as the type of records likely to be encountered, the location of the units, the general attitude of the group toward compliance, and other similar pertinent information.

The next step was the selection and training of the personnel to be used in the survey. Where regular Field Adjusters were concerned, this stage comprised only the giving of instructions concerning the assignments. However, in a number of surveys additional personnel was obtained on a temporary basis from the State Emergency Relief Administration. In the latter case, the new workers had to be carefully chosen,

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(*) Reports of several State Offices taking part in this survey are included in the special mass compliance appendix.

(**) For descriptions of mechanics of particular surveys, see reports included in special appendix.

usually on the basis of mental alertness, personality, and experience in meeting the public. Relief workers were used ordinarily only on educational surveys. The new workers had to be carefully trained in the data to be secured, the method of approach to particular types of employers, and in the technique of making field calls. (*)

The personnel used in the survey was usually divided into teams, each headed by a captain. The captains in turn were under a supervisor, who was directly responsible to the Labor Compliance Officer or other member of the State Office staff in ultimate charge of the survey. Assignments might be on the basis of territories, as in locality surveys, or lists of specific establishments to be inspected.

In educational surveys the workers usually filled out card reports on each call and turned them in to the supervisor for checking each day. The latter then followed up any reports of employers' refusing to give information.

In compliance drives this procedure was necessarily different. The Field Adjusters made inspections and usually attempted to obtain a signed agreement to adjust the violations which were found. The details of the adjustment were then worked out by members of the staff assigned to that particular phase of the work. (This scheme of organization was regularly used by some offices in the handling of complaints, see Chapter IV, section 5, supra.) Where the immediate adjustment of the violations could be made at the time of inspection, the case was usually so handled. This, however, was possible in only a small percentage of cases.

Following the day's inspection, the Field Adjusters made individual reports on each case. These were reviewed, and those showing violations were turned over to the adjustment staff. The latter then arranged conferences with the various employers and attempted to work out adjustments.

Following the completion of the survey, the results were tabulated and the data gathered was prepared for future use.

From the foregoing there are indicated certain necessary elements of an effective and efficient inspection system. For purposes of summary these are mentioned briefly, without a repetition of the experiences on which the conclusions are based.

First, there must be intelligent and careful planning of surveys and all relevant facts must be available.

Second, there is needed an adequate and trained staff. Selection of the personnel should be on a merit basis with due regard for the requisite qualifications of the particular jobs. Especially, the Field Adjusters should be thoroughly trained in the policies of the organization and in methods and techniques of investigation and adjustment

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(*) See particularly the Ohio State Office reports.

before being assigned to actual work. In setting up the scheme of organization useless executive positions should be eliminated and the emphasis laid on creating a large enough staff of Field Adjusters to carry out the program. The importance of Field Adjusters is reflected by the fact that over 54 percent of the docketed labor complaints were closed through this medium. (*)

Third, the authority to make inspections should be clear. It is highly important that not only there be authority to inspect records, but that reasonable requirements be introduced for the maintenance of wage and hour records.

Fourth, there should be an effective system for following up inspections with a speedy procedure for enforcement (including administrative relief). There should be a centralization of responsibility for completing adjustments not disposed of immediately in the field.

In advancing these recommendations in the form of conclusions, it is contemplated that the most effective permanent procedure is a routine inspection system, under which the efforts of local offices would be coordinated into a national scheme. This would have to be supplemented, however, by special investigations, and should be presaged by educational surveys to acquaint industry with its obligations and to establish goodwill.

It is unfortunate that the rapid strides being made in the development of mass compliance methods were abruptly terminated by the invalidation of the codes. However, sufficient experience had been had in this field to convince members of the Compliance Division staff that the use of mass compliance methods presented a more practical means of administration of labor standards than the reliance originally placed on complaints as the sole basis of activity.

(*) See table V, appendices.

PART IV

Chapter VIII - Statistical Summary of the Activity of the Compliance Division

Section 1. - A. Basic Data.

A system of reporting was maintained by the Compliance Division throughout the operating period of NRA. Reports were designed to provide the National Office with an indication of the relative efficiency of the field offices and to give those directly responsible for the administration of the various codes a picture of compliance conditions in the industries with which they were concerned.

Because of a series of changes made at different times in the data required in the current reports and the inadequacy of the reports for statistical purposes an entirely new analysis of state and regional office cases was made subsequent to the Schechter decision. The following tables have been compiled from these more or less uniform analyses.

The figures do not include all reported violations of NRA codes due to the limitations on the jurisdiction of the Compliance Division. They do not include cases originally received and acted on by Code Authorities and other special adjustment agencies, (*) nor do they include complaints received by the compliance offices and forwarded to Code Authorities. The figures presented here are those for the NRA State Offices, excluding those which were referred to the Compliance Division and Regional Offices for special administrative action.

In analysing the case record, all cases which were handled to a conclusion by the state offices and the files closed by them were included. In addition, all cases pending on May 27, 1935, which had been developed sufficiently to indicate the existence of a violation and its character were analysed and included in the tabulations.

Omitted from the count were:

a. All cases which had been referred to higher agencies or to enforcement agencies after the state offices had exhausted methods designed to secure an adjustment. The number of these cases is shown in Table XXIV.

b. Cases refered to Code Authorities on reference prior to June 16, 1934, were excluded. (**) These complaints were referred with the requirement that a report be submitted on their disposition and subject to the right of the compliance office to resume jurisdiction and to handle the case if the Code Authority's actions were not deemed adequate. Since the files on most of these cases had passed out of the possession of NRA, the detailed information required in the case analysis was not available

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(*) These include the National Labor Board, National Labor Relations Board, the various Regional Labor Boards; the Cotton Textile Industrial Relations Board and its successors; the Petroleum Administrative Board and the Petroleum Labor Policy Board; the Agricultural Adjustment Administration; the Federal Alcohol Control Administration; and a number of special boards established for particular industries.

Footnote continued on next page.

and, although the Compliance Division was responsible for their being satisfactorily closed, it has been necessary to exclude them from these statistics. The number of such complaints is given in Table 24.

c. Cases referred to the Code Authority in the first instance prior to June 16, 1934, are omitted.

d. Mass compliance inspections, or requests for an investigation by a Government purchasing agency, were not included unless violations were disclosed.

e. Complaints pending on May 27, 1935, which had not been investigated at the termination of the Compliance Division activities. The number of these cases is also given in the following chapter.

2. Method of Preparation of Statistics.

As has been explained, the data on state office operations has been compiled from case analyses prepared by the field offices from their records subsequent to May 27, 1935. These analyses were checked in Washington to ascertain whether reports had been prepared in accordance with instructions, (*) all questionable items being checked against the case file. The material was transcribed by the Washington staff to a form suitable for punch-card tabulation. Arrangements were made with the Bureau of the Census for machine tabulation on the basis of plans worked out by the Statistical Section of the Field Division.

The cases analyzed were divided into two principal classes: labor cases, comprising those cases dealing with violations or alleged violations of wage, hour and general labor provisions of codes and of the Executive Orders dealing with the posting of labor provisions, discharge of employees for making complaints and employment of handicapped workers; and trade practice cases, including cases arising under price, fair trade practice and general administrative provisions. While there may be some objection to the inclusion of "administrative violations" in the trade practice group, certain of them, such as failure to file prices, rates and tariffs, failure to supply statistical reports and failure to comply with various types of registration requirements, are closely related to

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(*) For instructions issued to State offices governing preparation of analyses see mimeographed letters from J. H. Ward, Assistant Field Division Administrator to Regional and State NRA Directors, dated July 10, 1935, and August 3, 1935, subject "Analysis of State Office Cases". For instructions for periodic statistical reporting during the active period of the codes, see Field Letter No. 154, August 25, 1934. In NRA Studies Special Exhibits Work Materials #85.

Footnote from preceding page.

(**) Original plans for the survey included cases sent on reference to the Code Authority prior to June 16, 1934. Analyses were received for 475 labor and 126 trade practice cases only, and these were omitted from the majority of the tabulations.

trade practice regulations. Furthermore, since this breakdown was used in classifying cases for reporting and for filing purposes prior to the Supreme Court decision, it was not thought advisable to introduce a basic change in classifications. An additional group of cases analyzed were those involving alleged violations of the President's Reemployment Agreement.

3. Definitions of Terms Used. CASE:

In general, all complaints which were valid on their face were docketed for investigation.

Since the formal acceptance and docketing of a complaint involved the preparation of several cards for various card files and the making up of a jacket, it became necessary to except certain classes of complaints from this procedure because of their volume. Large numbers of complaints charging violations of administrative provisions of codes, usually failure to file prices or statistics, and failure to register with the Code Authority for the industry, were filed with State Offices of the Compliance Division by Code Authorities. Since these complaints were usually in the form of long lists of industry members, or concerns supposed to be subject to the Code, docketing a complaint against each concern would have imposed a heavy burden of clerical work in offices which were already overburdened. Often many of the concerns charged with violations were no longer in business or not subject to the code alleged to have been violated. Field offices were therefore granted permission to act on these complaints, usually by writing letters to the respondents in an effort to secure compliance, without the formality of making up a docket. (*)

Non-payment of assessment cases, properly certified by the Code Authority, and containing no other type of violation, were forwarded without docketing by the State office to the Contribution Section of the Compliance Division in Washington. (**)

Except for complaints such as those described in the foregoing paragraph, the first complaint against a concern was normally docketed. During the early period of compliance activity, efforts were directed towards adjusting individual complaints. (***) Later, stress was placed on the necessity of clearing up all violations in any establishment complained against. In line with this development, instructions were issued to state offices on August 25, 1934, that all successive complaints against a concern on which there was an open file were to be joined to the previous file, with the purpose of securing one adjustment of all violations. Separate files against one establishment which were open at the time were to be consolidated. (****) If new

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(*) This occurred notably in the case of the Trucking Code. See Field Letters No. 156, August 28, 1934, p.1; No. 167, Oct. 1, 1934, p. 1; and No. 176, November 3, 1934, p. 1.

(**) See Field Letters No. 164, Sept. 21, 1934, p. 1, and No. 169, October 10, 1934, p. 1.

(***) Chapter V, Section I.

(****) Field Letter No. 154, August 25, 1934.

complaints were filed after the closing of files on previous complaints, it was customary to make up a new docket. Labor and trade practice complaints against the same establishment were frequently carried on separate docket numbers.

The term "case" as used in these statistics does not, therefore, necessarily represent an individual complaint, nor does it always represent all of the material against a single concern. The most nearly accurate definition which can be given is that it constitutes a docket of complaints, usually against one establishment or branch establishment, which was handled as an entity by the field office. Figures on the number of successive complaints against the same establishment are included in these tables, and are discussed in the following section.

Adjusted Cases: These cases represent dockets satisfactorily closed by the State Office. While the Division's policy as to adjustment underwent development and change during the nineteen months of its existence, the adjustment of business practices or of working conditions within an establishment to bring about full conformity with code requirements was always considered essential. The "Manual for the Adjustment of Complaints" (NRA Bulletin No. 7) issued in January, 1934, specified the making of "equitable restitution for past violations" as a condition precedent to the filing of a complaint as adjusted. In June, 1934, standards for restitution payment were defined as the payment of all wage deficiencies plus a penalty rate for all illegal overtime worked. These standards were further elaborated and refined during the following year. A large number of cases were settled without the requirement of back-wage payment, however. (*)

In connection with violations of trade practice and administrative regulations, the "adjustment" of a case normally required the cessation of the violation and the filing of a "certificate of compliance", an agreement to comply with code requirements in the future. While Bulletin No. 7 made no distinction between labor and trade practice complaints in the requirement of "equitable restitution", in practice it was usually impossible to determine the extent of damage caused by violations of trade practice provisions or the persons who had been directly injured.

No Violation Cases: These cases represent complaints accepted as adequate but found after investigation to be without a basis in fact. "Primary rejects", as explained above, are not included.

Dropped Cases: These represent cases in which violations were found to exist but which could not be settled by administrative action and were not considered suitable for litigation or further action. Labor totals include 526 cases in the nine service trades and in the Restaurant Industry, which were dropped after removal of the NRA insignia by the State NRA Compliance Director.

(*) See below, topic of "Wage Restitution" and also Tables VIII.

In trade practice cases, if the practice complained of ceased to be a code violation, because of a change in the code (e.g., price-fixing under the Cleaning and Dyeing Code), unadjusted violations were normally dropped. A similar circumstance arose when compliance with the Lumber and Timber Products Code was made voluntary after April 11, 1935. The majority in this classification of cases were dropped, however, because they were unsuitable for litigation, sometimes because the violation was minor or of a technical nature, often because the respondent was small and only an unimportant factor in his industry.(*)

Pending Cases: This classification includes those cases pending on May 27, 1935, which had been investigated sufficiently to disclose the nature of the violation.

Violation: A violation represents a failure to adhere to one code provision. In the count of violations, each code provision involved in a case is shown as a separate violation.

4. Limitations of Data: In using NRA State Office figures to evaluate the extent of compliance with NRA code provisions, one must consider certain definite limitations on the data.

It should be emphasized that these figures represent statistics of non-compliance rather than statistics of compliance. Furthermore, the volume of complaints is for the most part the result of individual initiative of those who suffered from code violation rather than the result of a census of compliance conditions in the industry.(**) It is known that a widespread condition of non-compliance could exist in certain codes and certain areas without statistical evidence in the form of complaints lodged by individual complainants.

The figures of NRA State Offices do not represent the entire volume of complaints because of the division in complaint activity between NRA State Office and Compliance Division and Regional Offices, the Code Authorities, and the group of special adjustment agencies, such as the Petroleum Labor Policy Board, and other agencies listed above. A dramatic illustration of this division is found in the Schechter case, which originated with an agent of the Code Authority, and went to the courts without passing through either the NRA State Offices or the Compliance Division.

The figures do not represent the entire volume of cases passing through the State Offices, since the survey is confined to docketed cases only. Cases referred to other agencies, cases rejected at the outset as not violations, cases involving assessments or registration, inspections for mass compliance, or at the request of Government purchasing agencies not resulting in the discovery of violations, are all excluded.

There are also variations between offices in docketing practices and in the interpretation of the instructions given, which result

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(*) Chapter V, Section 9.

(**) For a discussion of the two types of approach to compliance, individual complaints, or mass compliance, see Chapter VII, Section 4.

in some consistent biases in the figures. These will be pointed out in connection with individual tables. (*)

Section 2. Series of Tables of Complaint Statistics.

The figures have been reported according to the provisions alleged to have been violated. They fall accordingly into three groups, one for labor violations; a second for violations of trade practice and administrative provisions; and a third for violations of the President's Reemployment Agreement. Violations of code provisions have been tabulated first by State Office, and second by code.

Only selected tables are presented here. Of those included many show only national totals. Detailed figures are available in the records of the Statistical Section of the Field Division. (**)

Evaluation of code experience necessitates comparison of reported figures with census data to determine volume of complaints in relation to an external standard. Figures for relative numbers of employees and establishments in the industry are essential to the interpretation of the code figures.

(*) There is also a margin of error resulting from the mere number of cases to be subjected to case analysis. While it was intended that the analyses should be prepared by compliance officers, field adjusters and others familiar with code provisions, in some instances the clerical staff was drafted for the work. Although the reports as submitted to Washington were checked for consistency and numerous correction letters were written to the field, it is probable that miscoding and transcription errors remain in the original reports received from the states. The final coding which was done in Washington was checked and edited, and the punch cards verified, so that mechanical errors of this type were cut to a minimum.

(**) See Appendix I, Index of Tables.

GENERAL SUMMARY OF CODE COMPLAINTS

The summary figures for the NRA State Office Complaints reported in the survey are shown in the following table:

NRA STATE OFFICE COMPLAINT STATISTICS

Cases Accepted for Investigation

October 19, 1933 - May 27, 1935 a/

	Labor	Trade Practice
Docketed	123,192	36,977
Adjusted	50,240	19,674
No violation found	47,312	8,094
Dropped	14,663	5,295
Pending	10,977	3,914
Investigated	6,462	3,362
Not investigated	4,515	552

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a/ The NRA State Offices were officially active from October 19, 1933, to May 27, 1935. A total of 114 labor complaints accepted by other agencies prior to that date have been included. Figures for 475 labor and 126 trade practice complaints sent on reference to code authorities prior to June 16, 1934, have been excluded. Labor totals also exclude 236 cases reported as trade practice and subsequently found to be labor.

Prepared by:
Statistical Section,
Field Division, NRA
February 28, 1936.

TABLE I-.

NRA STATE OFFICE COMPLAINT STATISTICS

Number of Labor Code Cases Investigated a/

October 19, 1933 - May 27, 1935

Offices by Region	Case Count					First complaint against respondents				
	Docketed	Adjusted	No Violation	Dropped	Pending	Docketed	Adjusted	No Violation	Dropped	Pending
Total all offices	118,677	50,240	47,312	14,663	6,462	92,835	39,492	37,794	10,583	4,966
Total, Region 1	11,672	5,430	5,203	470	569	9,206	4,330	4,120	320	436
Maine	666	240	294	86	46	502	162	225	73	42
New Hampshire	595	297	246	21	31	502	248	221	14	19
Vermont	132	59	42	4	27	125	55	41	4	25
Massachusetts	7,429	3,608	3,354	128	339	6,092	2,981	2,778	72	261
Rhode Island	1,210	453	643	87	27	742	283	401	43	15
Connecticut	1,640	773	624	144	99	1,243	601	454	114	74
Total Region 2	17,153	3,571	7,152	5,551	879	14,124	3,112	6,424	3,795	793
Albany, N. Y.	1,584	502	652	398	32	1,231	382	517	310	22
Buffalo, N. Y.	1,851	791	948	97	15	1,474	610	783	71	10
New York, N. Y.	13,718	2,278	5,552	5,056	832	11,419	2,120	5,124	3,414	761
Total,Region 3	18,643	7,276	8,336	1,513	1,518	14,365	5,763	6,433	1,104	1,065
New Jersey	2,388	1,134	1,046	117	91	1,907	907	834	95	71
Philadelphia, Pa.	6,223	1,989	3,010	505	719	4,687	1,519	2,308	392	468
Pittsburgh, Pa.	3,125	1,423	1,345	168	189	2,316	1,083	986	123	124
Delaware	284	70	97	98	19	239	52	86	83	18
Maryland	2,233	581	963	461	228	1,519	394	687	279	159
District of Col.	949	582	327	10	30	846	535	283	6	22
Virginia	2,255	992	1,112	38	113	1,829	833	860	30	86
North Carolina	1,186	505	436	116	129	1,022	440	369	96	117
Total, Region 4	10,487	3,839	3,996	1,945	707	8,506	3,058	3,337	1,534	577
South Carolina	1,179	336	443	363	37	1,013	309	409	266	29
Georgia	2,192	968	741	364	119	1,544	665	529	268	82
Florida	1,270	404	308	331	227	1,055	303	272	274	206
Tennessee	1,630	715	439	348	128	1,274	589	324	276	85
Alabama	1,575	381	813	259	122	1,512	358	792	240	122
Mississippi	1,068	533	400	124	11	931	489	340	92	10
Louisiana	1,573	502	852	156	63	1,177	345	671	118	43
Total,Region 5	11,156	5,404	4,403	985	364	8,165	3,988	3,190	731	256
Michigan	4,133	2,026	1,699	282	126	2,704	1,351	1,079	193	81
Ohio	4,839	2,435	1,957	343	104	3,798	1,921	1,535	263	79
West Virginia	1,029	434	480	71	44	784	312	372	59	41
Kentucky	1,155	509	267	289	90	879	404	204	216	55

State Office Series

T986

TABLE I-a

NRA STATE OFFICE COMPLAINT STATISTICS

Number of Labor Code Cases Investigated a/

October 19, 1933 - May 27, 1935

Offices by Region	Case Count					First complaint against respondents				
	Docketed	Adjusted	No Violation	Dropped	Pending	Docketed	Adjusted	No Violation	Dropped	Pending
Total, Region 6	12,138	5,006	4,428	1,543	1,161	9,228	3,781	3,384	1,137	926
Wisconsin	2,058	824	614	195	425	1,727	697	520	145	365
Indiana	2,804	1,323	864	339	278	2,259	1,052	690	287	230
Illinois	5,072	1,994	2,213	519	346	3,489	1,335	1,577	343	234
Missouri	2,204	865	737	490	112	1,753	697	597	362	97
Total, Region 7	11,100	6,090	3,707	988	315	8,660	4,699	2,996	732	233
Minnesota	3,049	2,251	678	76	44	2,164	1,607	471	54	32
Iowa	1,985	800	995	151	39	1,541	593	813	107	28
North Dakota	544	159	172	213	--	468	132	157	179	--
South Dakota	484	238	202	34	10	340	157	155	24	4
Nebraska	2,335	1,166	952	77	140	1,871	949	768	54	100
Kansas	1,221	575	400	213	33	1,104	546	384	141	33
Wyoming	314	244	44	17	9	250	195	34	14	7
Colorado	1,168	657	264	207	40	922	520	214	159	29
Total, Region 8	10,232	6,031	3,299	550	352	8,286	5,028	2,570	419	269
Arkansas	989	355	559	5	70	763	287	424	5	47
Oklahoma	1,881	1,149	434	166	132	1,493	943	318	121	111
Dallas, Texas	3,212	2,143	843	173	53	2,606	1,783	649	134	40
Houston, Tex.	3,830	2,270	1,275	188	97	3,149	1,917	1,018	143	71
New Mexico	320	114	188	18	--	275	98	161	16	--
Total, Region 9	16,096	7,593	6,788	1,118	597	12,295	5,733	5,340	811	411
Montana	860	555	185	95	25	735	491	151	78	15
Idaho	510	163	347	--	--	460	137	323	--	--
Utah	385	215	103	30	37	302	161	89	23	29
Nevada	646	471	131	44	--	424	321	81	22	--
Arizona	431	252	149	4	26	323	190	111	2	20
Washington	2,779	1,120	1,327	230	102	1,910	756	957	138	59
Oregon	1,400	691	632	45	32	1,109	554	499	29	27
Los Angeles, Calif.	6,060	2,793	2,371	574	322	4,626	2,121	1,846	441	218
San Francisco, Cal.	3,025	1,333	1,543	96	53	2,406	1,002	1,283	78	43

a/ *Excludes Complaints Sent to Code Authorities on Reference Prior to June 16, 1934, and also 236 cases reported by state offices as Trade Practice and subsequently reclassified as Labor.

Prepared by:
Statistical Section
Field Division, NRA
2-14-36

A. Summary of Labor Complaint Statistics.

1. Number of Labor Cases.

Table I is the basic table showing the number of labor complaints under codes accepted for investigation and the relative share of each office.

This table includes labor cases docketed from October 19, 1933, to May 27, 1935, the period during which the offices were officially active. In addition to these it includes 114 cases received prior to October 19, and accepted by cooperating agencies such as the Bureau of Foreign and Domestic Commerce.

From this table are excluded 475 reported cases which were sent on reference by the State Offices to the Code Authorities prior to June 16, 1934. Inadequate records in the offices made it impossible to make analyses for cases in this category. A total of 6,409 had been reported as cases sent on reference to Code Authorities, in weekly reports to June 16, 1934.

The table also excluded 237 labor cases which were originally reported by State offices as trade practice cases and were subsequently found to be labor cases.

The reported volume of complaints is affected markedly by the omission of 4,515 labor cases pending on May 27, 1935, which had not been investigated sufficiently to ascertain the extent of violation or the amount of wage restitution due.(*)

It should be emphasized that Table I shows volume of docketed complaints only.

The right hand portion of Table I shows cases containing first complaints against respondents. This is presented in an effort to approximate the number of establishments against which complaints were filed.

First complaints represent 78.2 per cent of the total complaints docketed; 78.6 per cent of adjusted complaints; 79.9 per cent of no violation cases; 72.2 per cent of dropped cases; and 76.9 per cent of pending cases.

A separate count was taken of cases reported by docket number and code number, but cross referenced to another docket number for their basic information. There were 1,541 cases of successive complaints of this type reported as dropped. Of these, 1356 were reported by the New York City Office. This should be noted in commenting on the large number of cases dropped by the New York City Office. Figures in Table I show a total of 5,056 cases dropped by this office, but that only 3,414 cases were first complaints against respondents. The difference between the total number of dropped cases, and the number of first complaints reflects these cross-referenced cases.

(*) See Table XXV.

To complete the picture, reference should be made also to the volume of complaints handled by State Offices under the President's Reemployment Agreement.

2. Nature of Violation, Labor Complaints.

In a study of the administration of a series of regulations on the conditions of labor, perhaps the most significant data are those which show the provisions most frequently cited in violations. From these can be ascertained the relative administrative burden of different regulations.

The study of provisions most frequently violated has been made in terms of the individual codes violated, and these results have been compiled separately by code.(*) These offer a fruitful field for investigating such problems as whether there were relatively more hour violations in manufacturing codes, and relatively more wage violations in service or distributing codes. Whether the incidence of complaints in one industry is greater than in another can be ascertained only by reference to external data, such as Census figures for the size of the industry.(**)

(a) Method of preparation.

The classification of types of labor violations listed was furnished to the field agencies responsible for the analysis as a part of the original reporting instructions. Symbols representing these types were noted directly on the report forms.

Since the information included in case files might not always disclose the exact nature of the violation, general headings for wage and hour violations were given for use where further detail was not available.

A classification covering violations of provisions dealing with equitable adjustment of wages above the minimum, maintenance of weekly earning, maintenance of differential and similar provisions was omitted from the original reporting instructions by error. While such a classification was established later, it was impossible to re-examine all of the files which had been analyzed in order to correct this oversight. The violations so classified in these tables include only those definitely known to fall under this heading. Estimates based on special reports from

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(*) There is a master file included in the records of the Statistical Section of the Field Division, while other copies have been released to the Labor and Industries Studies Section. Copies of these analyses were also supplied to the Code History Section.

(**) See Scope of Industries under NRA Codes, Post Code Analysis, Nos. 60, 60A and 60B, March 25, 1934, May 4, 1934 and October 6, 1934, and Classification of Approved Codes in Industry Groups, Work Materials No. 13, Division of Review, NRA.

field offices show a total number of 504 cases. Of these 204 were reported by docket number and an additional 300 were estimated in percentages of total labor violations. Of the 204 specifically reported cases, 87 were adjusted, 100 no violation, 11 dropped, and 6 pending. The 204 cases include 105 cases of violation of the equitable adjustment provisions shown in the general summary.

General "administrative" violations which touched on the field of labor regulation, other than violations of the labor poster regulations, are included in the tables showing violations of trade practice and administrative provisions.

Each separate violation is shown against the classification under which the practice was placed. The sum of the violations is, of course, equal to or greater than the total number of cases docketed.

(b) Margin of error.

The method of compilation used and the volume of cases which were analyzed has prevented the checking of the type of violation data against provisions of all codes for consistency.

Some notes on errors in assigning violations to particular classifications will throw light on the limitations of the data. The larger part of the errors in the figures on seven major codes inspected were under the heading "Failure to pay overtime rate specified by code for permitted overtime". No provision of this type was included in three of the codes, and in the other four, the number of violations shown seemed out of proportion, due to the fact that the overtime rate was provided only for emergency repair work. It would appear that these violations were simply violations of the maximum hours provisions.

In the instance just cited and in a number of other cases, it is likely that the analyst has assigned the violation to a particular classification because it assumed that form rather than because the practice was specifically prohibited by the code. For example, 198 instances of Sunday work occur in the tabulation of adjusted Restaurant cases, and 101 under the Retail Food and Grocery Code, although Sunday work is not prohibited in either. It is probably safe to assume that these instances were actually violations of the six-day week provision, and that the employee complained because he was compelled to work every day of the week, including Sunday. Where violations of provisions dealing with method and time of payment are shown, despite the absence of specific regulations in the code, it may also be assumed that the violator was resorting to subterfuge in wage payments in order to evade the minimum wage.

The classifications which seem particularly affected by errors are as follows:

Exceeding daily limitation
Failure to average down
Sunday work
Saturday work
Failure to pay overtime rate specified by code
Method and time of payment

Table II presented here shows the national totals for labor code provisions violated. The table is based on normal cases investigated by the State Offices between October 19, 1933, and May 27, 1935, (and 114 cases accepted prior to that time). It excludes cases sent on reference to the Code Authorities prior to June 16, 1934, as well as all other cases referred to special adjustment agencies. It includes both first complaints against respondents, and all successive complaints which were docketed separately.

3. Complaints by Codes.

Table III shows the number of Labor cases by codes and method of disposition. Table IV lists the twenty-five codes, violations of which were reported most frequently.

4. Size of Respondents' Establishments.

The topic of the incidence of code regulations on labor conditions upon the small establishment has been one to which attention has been devoted, both by the Darrow Committee and by a section of the Research and Planning Division of NRA.

During the active period of field office administration, practically no data were available on the size of establishments against which complaints were lodged.(*)

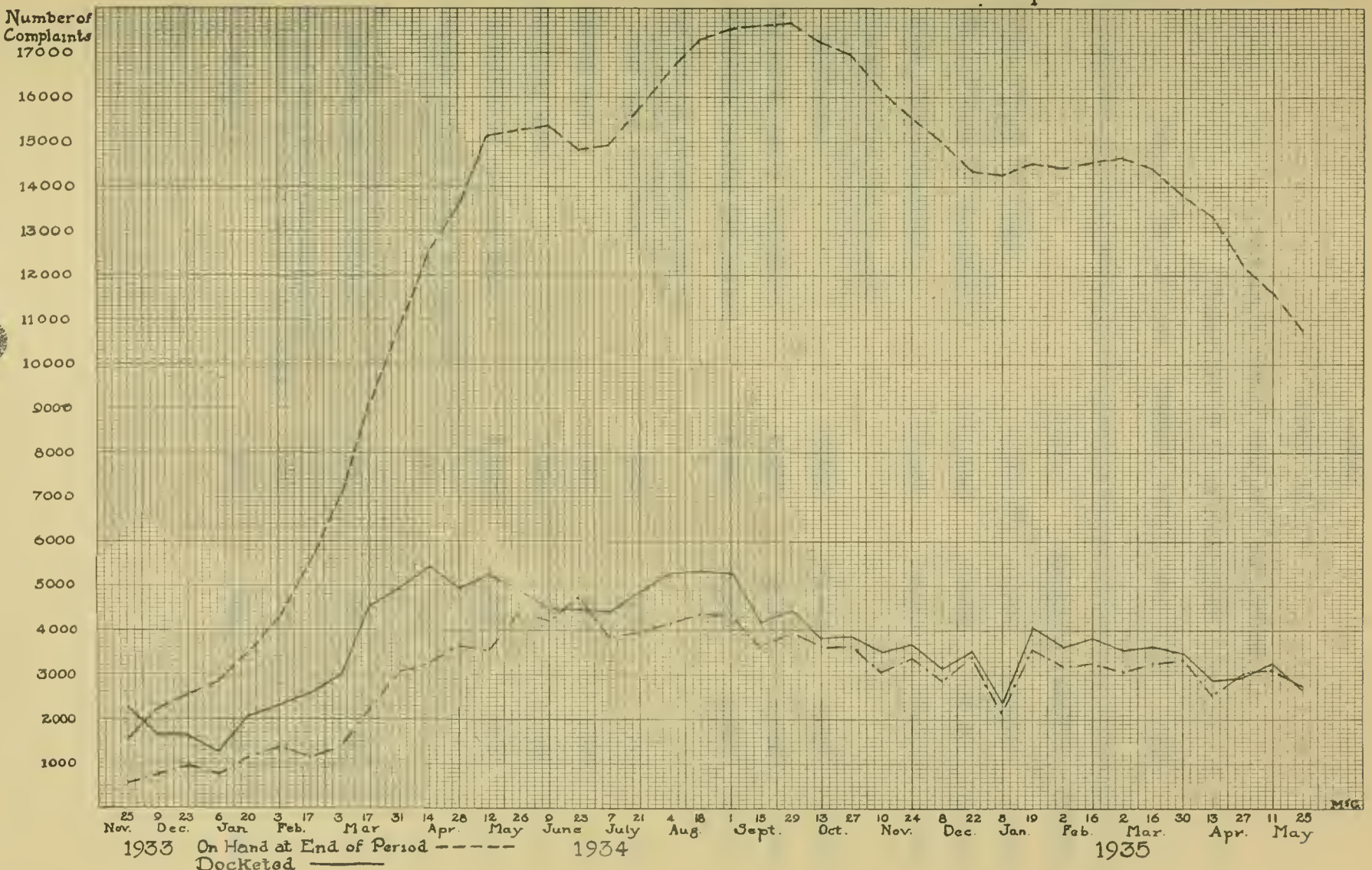
In the present survey size of establishment has been measured in terms of the number of employees in the unit establishment.(**) Figures have been grouped to show first, number of employees in individually operated establishments (Table V), and second the number of employees in units of chain distributing or service organizations. (Table VI). Offices were instructed to report the normal size of staff to avoid distorting the figures by showing the seasonal low point. Figures tend, however, to reflect size of staff at time of investigation.

In tabulating the figures, first complaints have been segregated from successive complaints against respondents, in order to provide size figures in which each establishment has been counted only once, regardless of the number of complaints against it.

(*) A survey of size data in selected offices, including Ohio, Philadelphia, Tennessee and Minnesota, was made in March of 1935, but the results were not tabulated.

(**) Report schedules provided also for the collection of information on dollar volume of business, but this figure was so poorly reported that no tabulation could be made. The schedule also provided for reporting the total number of employees of chains or combinations as well as the number in unit establishments belonging to chains, but this information was inadequate for tabulation.

Chart I
N. R. A. State Office Labor Complaints



CODEX BOOK COMPANY, INC. NORWOOD, MASSACHUSETTS
NO. 4114 12 BY 20 DIVISIONS PER INCH 144 BY 180 DIVISIONS.

TABLE II

NRA STATE OFFICE COMPLAINT STATISTICS

VIOLATIONS OF LABOR PROVISIONS

Total of all Offices - October, 1933, - May, 1935 a/

	TOTAL	ADJUSTED	DROPPED	PENDING
TOTAL NUMBER OF CASES	71,507 b/	50,311	14,731	6,465
TOTAL NUMBER OF VIOLATIONS	121,157	85,235	23,506	12,416
TOTAL HOUR VIOLATIONS	57,684	39,769	12,011	5,904
Maximum hours (if no more definite information is available)	17,290	10,213	4,941	2,136
Exceeding daily limitation	9,435	6,707	1,740	988
Exceeding weekly limitation	24,551	18,233	3,997	2,321
Failure to average down or exceeding limitation of more than one week	201	106	71	24
Sunday work	947	670	189	88
Saturday work	330	198	73	59
Violation of six-day week	3,635	2,608	798	229
Working during hours of the day not permitted by code	218	142	61	15
Employer working more than code maximum where prohibited	391	312	66	13
Exceeding permitted number of persons working unlimited hours	86	77	6	3
Split shifts	600	503	69	28

TABLE II (Cont'd)

	TOTAL	ADJUSTED	DROPPED	PENDING
TOTAL WAGE VIOLATIONS	58,039	40,754	11,045	6,240
Minimum wage violation (if no more definite information is available)	20,394	12,608	5,289	2,497
Equitable adjustment, maintenance of weekly wage, etc. c/	105	87	11	7
Minimum wage (definitely known)	26,226	19,629	4,086	2,511
Failure of piece rates to equal minimum	1,306	1,000	165	141
Deductions not authorized by the code	660	483	136	41
Failure to pay overtime rate specified by code for permitted overtime	6,963	5,212	900	851
Learners, apprentices or junior employees in excess of code allowance	338	262	37	39
Employing handicapped workers without certificate	104	85	7	12
Exceeding permitted number of handicapped workers	25	14	6	5
Violation of handicapped workers' certificate	37	28	5	4
Violation of provisions dealing with method of payment, time of payment, etc.	674	467	159	48
Female discrimination	78	54	19	5
Reclassification, improper classification and miscellaneous subterfuge	873	634	173	66
Waiting time not paid for	256	191	52	13

TABLE II (Cont'd)

	TOTAL	ADJUSTED	DROPPED	PENDING
TOTAL GENERAL PROVISIONS	5,434	4,712	450	272
Child Labor	316	254	43	19
Failure to post labor provisions	4,470	4,012	259	199
Employment and payroll records (see Trade Practice Classification) d/	2	2	---	---
Homework, permitting homework where prohibited	204	154	24	26
Violation of homework regulations where permitted	62	36	18	8
Discharge or discrimination for filing complaint	352	229	104	19
Miscellaneous	28	25	2	1

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Also included are 14 adjusted and 43 dropped cases accepted prior to October 19, 1933.

b/ Total case count includes 70 adjusted, 68 dropped and 3 pending cases transferred from Trade Practice reports, not listed in Table I.

c/ See supplementary Table XIII-A for revised figures.

d/ State Offices generally reported this item as Failure to File Labor Statistics which is included in Violations of Trade Practice Provisions.

9861

Prepared by:
Statistical Section
Field Division, NRA
March 14, 1936

Code Series

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 a/

Codes	Total	Method of Disposition			
		Adjusted	No Violation	Dropped	Pending
Total all Codes	118,958	50,311	47,451	14,731	6,465
Abrasive Grain Industry	3		3		
Academic Costume Industry	5	1	2		2
Advertising Display Installation Trade	57	20	28	7	2
Advertising Distributing Tr.	158	80	65	13	
Advertising Specialty Mfg. Ind.	57	21	28	5	3
Air Transport Industry	17	7	7	2	1
Air Valve Industry	1			1	
Alcoholic Beverage Importing Tr.	15	6	5	1	3
Alcoholic Beverage Wholesale Industry	389	218	91	26	54
All-Metal Insect Screen Ind.	20	14	1	4	1
Alloy Casting Industry	1		1		
Aluminum Industry	5	1	1	1	2
American Glassware Ind.	54	14	29	8	3
American Match Industry	10	4	6		
American Petroleum Equipment Industry & Trade	174	91	74	6	3
Animal Glue Industry	3	1	2		
Anti-Friction Bearing Ind.	11	3	8		
Anti-Hog Cholera Serum Ind.	10	5	3	2	
Art Needlework Industry	11	2	7	2	
Artificial Flower & Feather Ind.	404	48	238	100	18
Artificial Limb Mfg. Ind.	4	2	1		1
Asbestos Industry	23	6	12	2	3
Asphalt and Mastic Tile Ind.	5	3	1	1	
Asphalt Shingle & Roofing Ind.	16	7	5	4	
Assembled Watch Industry	4		1	3	
Athletic Goods Mfg. Ind.	40	19	17	3	1
Auction and Loose Leaf Tobacco Warehousing Trade	27	12	5	7	3
Automatic Sprinkler Ind.	12	2	10		
Auto Rebuilding and Refinishing Trade	59	22	13	5	19
Automobile Mfg. Industry	151	48	85	14	4
Automotive Chemical Specialties Mfg. Industry	1	1			
Automotive Parts & Equipment Mfg. Industry	441	198	201	27	15

Code Series

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Baking Industry	3340	1466	1208	402	264
Ball Clay Production Ind.	4		2	1	1
Band Instrument Mfg. Ind.	6	3	2	1	
Bank & Security Vault Mfg. Ind.	5	1	3	1	
Bankers Industry	542	112	146	270	14
Barber Shop Trade	1620	821	563	216	20
Batting & Padding Ind.	16	11	4		1
Beauty & Barber Shop Mechanical Equipment Mfg. Ind.	29	12	13	3	1
Bedding Mfg. Ind.	222	74	110	17	21
Beet Sugar Ind.	40	32	7	1	
Beverage Dispensing Equipment Industry	33	16	12	2	3
Bias Tape Industry	2	1	1		
Bicycle Manufacturing Industry	4	4			
Bituminous Coal Industry	91	30	41	20	
Bituminous Road Material Distributing Industry	2		2		
Bleached Shellac Mfg. Ind.	1	1			
Blouse & Skirt Mfg. Ind.	362	150	130	46	36
Blue Print & Photo Print Ind.	7	3	3	1	
Boat Building & Boat Repairing Industry	36	12	18	2	4
Bobbin & Spool Mfg. Ind.	7	4	1		2
Boiler Mfg. Ind.	38	15	15	6	2
Boot & Shoe Mfg. Ind.	1584	583	770	103	128
Bottled Soft Drink Industry	254	117	100	20	17
Bottling Machinery & Equipment Mfg. Industry	5	4			1
Bowling & Billiard Equipment Industry & Trade	4		1	2	1
Bowling & Billiard Operating Tr.	119	49	39	23	8
Brattice Cloth Mfg. Ind.	3		3		
Brewing Industry	288	149	76	30	33
Broom Manufacturing Ind.	57	18	26	5	8
Brush Manufacturing Ind.	29	12	12	3	2
Buff & Polishing Wheel Ind.	3		2		1
Buffing & Polishing Composition Industry	3	1	2		

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Builders Supplies Trade	167	56	82	24	5
Bulk Drinking Straw Industry	1			1	
Burlesque Theatrical Industry	11	4	4	3	
Business Furniture, Storage Equipment and Filing Supply Ind.	66	15	36	11	4
Fire Resistive Safe Industry	8	6	2		
Can Manufacturing Industry	48	8	36	1	3
Candle Manufacturing Ind.	7	2	3		2
Candlewick Bedspread Industry	5	1	2	1	1
Candy Manufacturing Industry	310	114	142	22	32
Canned Salmon Industry	63	21	42		
Canning Industry	483	143	217	53	70
Canning & Packing Machinery Ind.	8	1	7		
Canvas Goods Industry	107	46	53	3	5
Cap & Closure Industry	10	4	4	1	1
Cap & Cloth Hat Industry Ind.	60	26	23	6	5
Carbon Black Mfg. Ind.	9	3	6		
Card Clothing Industry	1	1			
Carpet & Rug Mfg. Industry	39	10	24	3	2
Cast Iron Boiler & Radiator Ind.	10	5	5		
Cast Iron Pressure Pipe Ind.	14	1	8	4	1
Cast Iron Soil Pipe Ind.	15	7	6	2	
Celluloid Button, Buckle and Novelty Mfg. Industry	22	5	6	7	4
Cement Industry	40	11	26	2	1
Chemical Mfg. Industry	109	25	67	11	6
Chewing Gum Industry	2		1	1	
Chilled Car Wheel Industry	11	6	4		1
China Clay Producing Ind.	3	2	1		
Chinaware & Porcelain Mfg. Ind.	34	11	18	2	3
Cigar Container Industry	25	5	12	4	4
Cigarette, Snuff, Chewing, & Smoking Tobacco Mfg. Ind.	5	1	3	1	
Cigar Mfg. Ind.	76	22	34	11	9
Cinders, Ashes & Scavenger Tr.	147	38	60	47	2
Clay & Shale Roofing Tile Ind.	5	1	2	2	
Clay Drain Tile Mfg. Ind.	5	3	1	1	
Clay Machinery Ind.	1	1			
Cleaning & Dyeing Trade	2376	861	905	506	104
Clock Mfg. Ind.	2		2		
Cloth Reel Industry	2	1		1	
Coal Dock Industry	10	2	3	2	3
Coat & Suit Industry	239	58	117	59	5

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TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Coated Abrasives Industry	1	1			
Cocoa & Chocolate Mfg. Ind.	28	12	11	1	4
Coffee Industry	59	31	23	5	
Coin Operated Machine Mfg. Ind.	29	10	5	11	3
Collapsible Tube Industry	3	3			
Commercial Aviation Industry	3		3		
Commercial Breeder & Hatchery Ind.	98	49	33	9	7
Commercial Fixture Industry	130	25	70	28	7
Commercial Refrigerator Ind.	61	20	29	9	3
Commercial Vehicle Body Ind.	42	23	12	3	4
Compressed Air Industry	7	2	2	3	
Concrete Masonry Industry	36	15	13	2	6
Concrete Pipe Mfg. Ind.	23	12	9	2	
Construction Industry	3603	1521	1471	323	288
Building Granite Industry	4	1	3		
Cement Gun Contractors	12	3	6	1	2
Construction News Service Ind.	27	6	16	1	4
Cork Insulation Contracting Ind.	1	1			
Electrical Contracting Ind.	437	155	208	49	25
Elevator Mfg. Industry	16	4	11		1
General Contractors Ind.	85	26	47	3	9
Heating, Piping & Air Conditioning Contracting Ind.	118	40	58	9	11
Highway Contractors Ind.	13	7	3		3
Insulation Contractors Ind.	17	9	6	1	1
Kalamien Industry	8	2	1	1	4
Marble Contracting Ind.	1	1			
Mason Contracting Ind.	74	34	29	3	8
Painting, Paperhanging and Decorating Contracting Ind.	601	243	243	58	57
Platering & Lathing Contracting Industry	383	143	156	40	44
Plumbing Contracting Ind.	1211	449	540	144	98
Resilient Flooring Contracting Industry	11	4	6		1
Roofing & Sheet Metal Contracting Industry	303	127	147	9	20
Terrazo & Mosaic Contracting Industry	4	2	2		
Tile Contractors Ind.	36	13	20	3	
Wood Floor Contracting Ind.	12	3	8		1
Construction Machinery Distributing Trade	15	5	6	3	1

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Cooking & Heating Appliance Mfg. Industry	46	11	27	5	3
Copper Industry	4	2	1		1
Copper & Brass Mill Products Ind.	34	6	16	10	2
Cordage & Twine Industry	70	17	39	14	
Cork Industry	8	3	4	1	
Corn Cob Pipe Ind.	1		1		
Corrugated & Solid Fiber Shipping Container Mfg. Ind.	36	12	17	4	3
Corset & Brassier Industry	95	33	36	20	6
Cotton Cloth Glove Mfg. Industry	50	21	21	3	5
Cottom Garment Industry	1160	546	466	127	21
Cotton Ginning Machinery Ind.	1	1			
Cotton Pickery Industry	4	3	1		
Cotton Textile Industry	184	36	98	48	2
Counter Type Ice Cream Freezer Mfg. Industry	1	1			
Country Grain Elevator Ind.	69	36	22	6	5
Crown Mfg. Industry	1			1	
Crushed Stone, Sand & Gravel and Slag Industry	474	213	190	39	32
Curled Hair Mfg. Industry	2		1		1
Cylindrical Liquid Tight Paper Container Industry	1		1		
Daily Newspaper Publishing Business	156	42	93	18	3
Dental Goods & Equipment Ind. and Trade	18	10	7		1
Dental Laboratory Industry	153	75	54	17	7
Die Casting Mfg. Industry	12	2	9		1
Distilled Spirits Industry	51	22	18	4	7
Distilled Spirits Rectifying Ind.	53	30	15	1	7
Dog Food Industry	11	8	1		2
Domestic Freight Forwarding Ind.	76	31	31	10	4
Dowel Pin Manufacturing Ind.	1		1		
Drapery & Upholstery Trimming Industry	34	7	11	13	3
Dress Mfg. Industry	409	144	176	87	3
Dropped Forging Industry	6	1	4	1	
Dry and Polishing Mop Mfg. Ind.	1	1			
Dry Color Mfg. Ind.	6	3	2		1
Dry Goods Cotton Batting Ind.	1		1		
Earthenware Mfg. Ind.	22	9	9	2	2

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May,1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Electric & Neon Sign Ind.	108	31	60	2	15
Electric Hoist & Monorail Mfg. Ind.	1	1			
Electric Storage & Wet Primary Battery Mfg. Ind.	77	39	31	5	2
Electric Mfg. Ind.	745	213	385	111	36
Electrotyping & Stereotyping Industry	38	12	17	8	1
End Grain Strip Wood Block Ind.	6	3	3		
Envelope Ind.	32	12	13	7	
Excelsior & Excelsior Products Industry	24	10	6	4	4
Expanding & Specialty Paper Products Industry	3	2		1	
Fabricated Metal Products Ind.	961	410	391	92	68
Fan & Blower Industry	1		1		
Farm Equipment Industry	73	36	33	1	3
Feed Mfg. Industry	139	60	52	11	16
Feldspar Industry	2		1	1	
Fertilizer Industry	72	12	45	12	3
Fibre & Metal Work Clothing Button Industry	6	1	4	1	
Fibre Can & Tube Industry	9	3	5	1	
Fibre Wallboard Industry	1		1		
Fire Extinguishing Appliance Mfg. Industry	8	1	6		1
Fisheries Industry	266	77	140	40	9
Atlantic Mackrel Fishing Ind.	1		1		
Blue Crab Industry	4	1	2		1
California Sardine Processing Ind.	2	1			1
Fresh Oyster Industry	30	3	16	11	
New England Fishing Ind.	1		1		
Fishing Tackle Industry	28	13	8	3	4
Flag Manufacturing Ind.	3	2		1	
Flat Glass Mfg. Ind.	5		1		4
Flavoring Products Ind.	8	5	1		2
Floor Machinery Ind.	3	3			
Floor & Wall Clay Tile Ind.	25	12	11		2
Fluted Cup, Pan Liner & Lace Paper Industry	6	1	5		
Folding Paper Box Industry	92	29	40	8	15

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Food Dish and Pulp & Paper Plate Industry	7	3	3	1	
Foundry Supply Industry	4	2	2		
Fresh Water Pearl Button Ind.	59	7	18	31	3
Fullers Earth Producing and Marketing Industry	8	2	5		1
Funeral Service Industry	205	80	96	15	14
Funeral Supply Industry	99	42	40	8	9
Fur Dealing Trade	25	8	10	6	1
Fur Dressing & Fur Dyeing Ind.	76	15	39	16	6
Fur Manufacturing Ind.	333	78	155	87	13
Fur Trapping Contractors Ind.	9	4	3		2
Furniture & Floor Wax & Polish Industry	28	12	9	6	1
Furniture Mfg. Ind.	904	358	373	96	77
Terminal Grain Elevators	42	4	23	9	6
Garter, Suspender & Buckle Mfg. Industry	48	13	24	9	2
Gas Appliances & Apparatus Ind.	35	15	13	5	2
Gas Cock Industry	10	1	7	2	
Gasoline Pump Mfg. Ind.	9	6	2		1
Gear Mfg. Industry	9	4	4		1
Glass Container Industry	63	26	34	2	1
Glazed & Fancy Paper Industry	14	5	9		
Grain Exchanges & Members Thereof	12	3	8		1
Graphic Arts Industry	1440	459	631	231	119
Intalgio Printing Process Group	17	7	5	3	2
Lithographic Printing Process Gr.	18	11	6		1
Relief Printing Process Group	1199	536	426	166	71
Trade Mounting & Finishing Ind.	2		2		
Gray Iron Foundry Industry	178	76	82	12	8
Grinding Wheel Industry	6	3	3		
Gummed Lebel Embossed Seal Ind.	9	4	4	1	
Gumming Industry	1				1
Gypsum Industry	5	2	1		2
Hair & Jute Felt Industry	7	3	4		
Hair Cloth Mfg. Industry	9		7	1	1
Handkerchief Industry	57	21	25	9	2
Hardwood Distillation Ind.	12	1	11		
Hat Manufacturing Ind.	121	40	65	11	5
Hatters Fur Cutting Ind.	5	1	3	1	
Heat Exchange Industry	9	2	6	1	
Hide & Leather Working Machinery Industry	3		3		

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Horse Hair Dressing Industry	2	2			
Horse Shoe and Allied Producing Mfg. Ind.	1	1			
Hosiery Industry	355	119	176	42	18
Hotel Industry	4321	1534	1771	904	112
Household Goods Storage and Moving Trade	194	82	74	19	19
Household Ice Refrigerator Ind.	28	11	12	3	2
Ice Industry	1033	423	442	123	45
Ice Cream Cone Industry	66	10	42	3	11
Imported Date Packing Ind.	11	4	5	1	1
Imported Green Olive Industry	1		1		
Importing Trade	25	10	5	7	3
Industrial Furnace Mfg. Ind.	9	5	3		1
Industrial Oil Burner Equipment Mfg. Ind.	1			1	
Industrial Safety Equipment Industry & Trade	2	1		1	
Industrial Supplies & Machinery Distributing Trade	38	14	18	6	
Non-Ferrous Ingot Metal Ind.	7	3	3	1	
Industry of Collective Mfg. for Door-to-Door Distribution	18	6	10	1	1
Infant's & Children's Wear Ind.	126	39	54	21	12
Inland Water Carrier Trade (N.Y. Canal System)	3		1	2	
Insecticide & Disinfectant Mfg. Industry	12	6	4	1	1
Insulation Board Industry	1		1		
Investment Bankers	25	9	11	5	
Iron & Steel Industry	213	48	137	23	5
Knitted Outerwear Ind.	232	64	124	31	13
Lace Mfg. Ind.	40	16	18	4	2
Ladder Mfg. Ind.	11	5	6		
Ladies Handbag Ind.	166	68	63	23	12
Laundry Trade	1041	253	387	347	54
Laundry & Dry Cleaning Machinery Mfg. Industry	18	6	12		
Lead Industry	22	5	8	7	2
Leather Industry	289	107	150	9	23
Leather & Woolen K nit Glove Industry	75	18	37	16	4

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Leather Cloth & Lacquered Fabrics Industry	10	4	3	2	1
Legitimate Full Length Dramatic Theatrical Industry	52	11	19	19	3
Lightning Rod Mfg. Industry	2		1		1
Light Sewing Industry except Garments Industry	44	11	29	2	2
Lime Industry	34	7	21	4	2
Limestone Industry	27	6	14	2	5
Linoleum & Felt Base Mfg. Ind.	8	3	4		1
Linseed Oil Mfg. Ind.	2	1	1		
Liquefied Gas Industry	7	3	2	2	
Live Poultry Industry of Metropolitan New York Area	1				1
Loose Leaf & Blank Book Ind.	11	1	8		2
Luggage & Fancy Leather Goods Industry	255	115	86	33	21
Lumber & Timber Products Ind.	2809	762	1445	493	109
Lye Industry	2	1	1		
Macaroni Industry	115	41	54	9	11
Machine Applied Staple & Stapling Machine Industry	6	2	1		3
Machine Knife & Allied Steel Products Industry	6	2	4		
Machine Tool & Equipment Distributors Industry Trade	12	7	3	2	
Machine Tool & Forging Machinery Industry	26	10	12	3	1
Machined Waste Mfg. Industry	24	3	21		
Machinery & Allied Products Ind.	150	62	72	8	8
Malleable Iron Industry	38	5	30	2	1
Malt Industry	1	1			
Malt Products	7	2	4		1
Manganese Industry	1		1		
Mfg. & Wholesale Surgical Ind.	14	6	5	2	1
Marble Quarrying & Finishing Ind.	8	7	1		
Marine Auxiliary Machinery Ind.	8	1	4		3
Marking Devices Industry	36	12	19	4	1
Mayonaise Industry	31	12	12	5	2

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Mechanical Packing Ind.	2		2		
Medium & Low Priced Jewelry Mfg.	247	91	107	34	15
Men's Clothing Industry	351	121	167	56	7
Men's Neckwear Industry	156	45	72	28	11
Merchandise Warehousing Tr.	112	38	53	16	5
Merchant & Custom Tailoring Ind.	320	121	151	15	33
Metal Etching Industry	9	4	4		1
Metal Hat Die & Wood Hat Block Industry	4	1	3		
Metal Hospital Furniture Mfg. Industry	1		1		
Metal Lath Industry	3	1			2
Metal Tank Industry	42	13	24		5
Metal Treating Industry	1				1
Metal Window Industry	8	4	4		
Mica Industry	10	5	3	2	
Milk Filtering Materials Ind.	4	4			
Millinery Industry	329	89	166	50	24
Millinery & Dress Trimming Braid and Textile Industry	41	10	13	15	3
Mop Stick Industry	4	2	2		
Motion Picture Industry	1944	725	888	232	99
Motion Picture Laboratory Ind.	22	14	4	3	1
Motor Bus Industry	210	62	102	33	13
Motor Fire Apparatus Mfg. Ind.	9	3	6		
Motor Vehicle Maintenance Tr.	194	102	52	6	34
Motor Vehicle Retailing Trade	6060	3152	2163	417	328
Motor Vehicle Storage & Parking Trade	3327	1239	1201	715	172
Motorcycle Mfg. Industry	4	2	2		
Music Publishing Industry	2				2
Musical Merchandise Mfg. Ind.	15	7	6	2	
Mutual Savings Banks	2		1	1	
Narrow Fabrics Industry	48	20	27	1	
Natural Organic Products Ind.	2		1		1
Newsprint Industry	8	2	4	1	1
Nickel & Nickel Alloys Industry	2	1			1
Non-Ferrous & Steel Convector Mfg. Industry	4	2	2		
Non-Ferrous Foundry Industry	53	17	25	6	5
Nottingham Lace Curtain Ind.	4	3	1		
Novelty Curtains, Draperies and Bedspreads Industry	99	31	40	17	11

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition			
		Adjusted	No Violation	Dropped	Pending
Office Equipment Mfg. Ind.	65	23	39	3	
Oil Burner Industry	89	37	35	10	7
Open Paper Drinking Cup Industry	3		3		
Optical Mfg. Industry	76	18	47	7	4
Optical Retail Trade	33	11	16	5	1
Optical Wholesale Ind. & Trade	30	12	16	1	1
Ornamental Moulding, Carving and Turning Industry	10	1	6	2	1
Outdoor Advertising Trade	45	16	27		2
Oxy-Acetylene Industry	15	6	7		2
Pacific Coast Dried Fruit Ind.	9	3	6		
Packaged & Processed Cheese Ind.	3		1		2
Package Medicine Industry	32	12	16	3	1
Packaging Machinery Ind. & Trade	5	3	2		
Paint, Varnish & Lacquer Mfg. Ind.	93	37	42	8	6
Paper & Pulp Industry	184	38	104	24	18
Paper Bag Mfg. Ind.	43	7	27	4	5
Paper Disc Milk Bottle Cap Ind.	10	1	5	2	2
Paper Distributing Trade	91	42	36	7	6
Paper Makers Felt Industry	1				1
Paper Making Machine Builders	6	1	3		2
Paper Stationery & Tablet Mfg. Ind.	22	8	8	3	3
Paperboard Industry	18	6	8	3	1
Pasted Shoe Stock Ind.	9	4	3	1	1
Peanut Butter Industry	16	9	6		1
Pecan Shelling Industry	10	3	4	3	
Perfume, Cosmetics & Other Toilet Preparations Mfg. Ind.	96	26	37	15	18
Petroleum Industry	128	40	33	53	2
Pharmaceutical & Biological Mfg. Industry	7	2	3	1	1
Photo-Engraving Ind.	58	32	19	3	4
Photographic Mount Industry	6		5	1	
Photographic Mfg. Ind.	13	3	9	1	
Photographic and Photo Finishing	244	93	97	35	19
Piano Manufacturing Industry	15	7	5	3	
Pickle Packing Industry	51	20	13	6	12
Picture Moulding & Picture Frame Industry	54	19	19	10	6
Pipe Nipple Mfg. Industry	8	3	5		
Pipe Organ Industry	8	4		2	2
Pleating, Stitching & Bonnaz & Hand Embroidery Industry	212	40	53	104	15
Plumbago Crucible Industry	3	1	2		

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition			
		Adjusted	No Violation	Dropped	Pending
Plumbing Fixtures Ind.	94	28	42	14	10
Porcelain Breakfast Furniture Assembling Industry	29	4	19	3	3
Pottery Supplies & Backwall & Radiant Industry	7		4	3	
Powder Puff Ind.	31	12	10	8	1
Precious Jewelry Producing Ind.	70	22	38	8	2
Preformed Plastic Products Ind.	2	1	1		
Preserve, Maraschino Cherry and Glace Fruit Industry	25	13	8	2	2
Pretzel Industry	33	9	18	1	5
Print Roller & Print Block Mfg. Industry	7	1	5		1
Printers Rollers Industry	4	1	2	1	
Printing Equipment Industry	13	3	7	2	1
Printing Ink Industry	6	1	3	2	
Private Home Study Schools	2	1	1		
Public Seating Industry	11	8			3
Pump Manufacturing Industry	18	8	8	1	1
Punchboard Mfg. Industry	3		2		1
Pyrotechnic Mfg. Industry	18	9	4	4	1
Quicksilver Industry	2	1	1		
Radio Broadcasting Ind.	95	46	38	5	6
Railway Brass Car & Locomotive Journal Bearings Industry	1	1			
Railway Car Building Ind.	20	5	13	2	
Railway Safety Appliance Ind.	3	1	2		
Raw Peanut Milling Ind.	12	1	9	2	
Rayon & Silk Dyeing & Printing Industry	67	26	23	13	5
Rayon & Synthetic Yarn Producing Industry	34	8	23	3	
Ready-made Furniture Slip Cover Industry	25	10	10	2	3
Ready Mixed Concrete Industry	22	6	11	4	1
Real Estate Brokers	102	41	39	12	10
Reclaimed Rubber Mfg.	4	1	2		1
Refractories Industry	31	6	20	2	3
Refrigerated Warehouse Ind.	50	25	12	8	5
Reinforcing Materials Fabricating Industry	14	6	7	1	
Restaurant Industry	14,664	6822	5073	2198	571
Retail Farm Equipment Industry	86	43	29	9	5

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NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Adjusted	Method of Disposition No Violation	Dropped	Pending
Retail Food & Grocery Trade	13,620	7483	4432	1136	569
Retail Jewelry Trade	227	99	106	17	5
Retail Lumber Trade	653	220	343	52	38
Retail Meat Trade	298	107	109	18	64
Retail Monument Industry	89	37	38	10	4
Retail Rubber Tire & Battery Tr.	564	292	197	35	40
Retail Solid Fuel Industry	1273	495	590	97	91
Retail Tobacco Trade	104	61	29	5	9
Retail Trade	9483	4471	4019	655	338
Retail Custom Millinery Trade	11	4	5		2
Retail Drug Trade	734	401	278	34	21
River & Harbor Improvement Ind.	19	10	7		2
Road Machinery Mfg. Industry	22	12	7	1	2
Robe & Allied Products Ind.	46	16	22	6	2
Rock & Slag Wool Mfg. Industry	7	3	3	1	
Rock Crusher Mfg. Industry	1	1			
Rolling Steel Door Industry	1		1		
Roofing Granule Mfg. Industry	9	2	4	3	
Rubber Manufacturing Industry	171	65	81	16	9
Rubber Tire Mfg. Industry	50	15	30	5	
Rug Chemical Processing Ind.	3	2	1		
Saddlery Manufacturing Industry	56	30	18	6	2
Safety Razor & Safety Razor Blade Mfg. Industry	6	3	1	1	1
Salt Producing Industry	25	4	20	1	
Sample Card Industry	44	13	11	13	7
Sand Lime Brick Industry	3	1	1	1	
Sandstone Industry	2	1			1
Sanitary & Waterproof Specialties Industry	2		2		
Sanitary Napkin & Cleansing Tissue Mfg. Industry	1	1			
Savings Building & Loan Ass'ns.	11	2	7	1	1
Saw & Steel Products Mfg. Ind.	3		2	1	
Schiffli, Hand Machine Embroidery Industry	52	17	21	12	2
Scientific Apparatus Industry	45	13	23	7	2
Scrap Iron, Non-Ferrous Scrap Metal Industry	911	380	350	106	75
Secondary Aluminum Industry	2		1		1
Secondary Steel Products Warehouse Trade	2	1	1		

Code Series

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Seed Trade	41	22	11	2	6
Set-Up Paper Box Mfg. Ind.	263	101	103	31	28
Sewing Machine Industry	30	9	15	1	5
Shipbuilding & Shiprepairing Ind.	115	26	75	11	3
Shoe & Leather Finish and Polish Industry	40	14	22	2	2
Shoe Last & Shoe Form Industry	26	8	17		1
Shoe Machinery Industry	39	16	21		2
Shoe Pattern Mfg. Industry	15	6	9		
Shoe Rebuilding Trade	998	356	386	225	31
Shoulder Pad Mfg. Ind.	11	2	7	2	
Shovel, Dragline & Crane Ind.	12	6	2	1	3
Shower Door Industry	1				1
Silk Textile Industry	300	90	164	37	9
Silverware Mfg. Industry	17	9	13	3	2
Slate Industry	12	4	7		1
Slide Fastener Industry	4	3		1	
Slit Fabric Mfg. Industry	12	2	7	3	
Small Arms & Ammunition Ind.	5	1	3		1
Smoking Pipe Mfg. Ind.	23	5	15	2	1
Soap & Glycerine Industry	72	21	42	6	3
Soft Fibre Mfg. Ind.	6		6		
Soft Lime Rock Industry	1				1
Solid Braided Cord Industry	2	2			
Southern Rice Milling Ind.	11	6	5		
Special Tool, Die & Machine Shop Industry	310	94	183	17	16
Specialty Accounting Mfg. Ind.	8	4	4		
Spice Grinding Ind.	6	3	1	1	1
Spray Painting & Finishing Equipment Mfg. Ind.	2	1			1
Stained & Leaded Glass Ind.	1				1
Stay Mfg. Industry	28	9	15	3	1
Steam Heating Equipment Ind.	1		1		
Steel Casting Industry	37	10	21	1	5
Steel Plate Fabricating Ind.	19	6	12		1
Steel Tubular & Firebox Boiler Industry	11	4	4	3	
Steel Wool Industry	2		2		
Stereotype Dry Mat Industry	1			1	
Stock Exchange Firms	35	7	13	15	
Stone Finishing Machinery and Equipment Industry	1		1		
Structural Clay Products Ind.	130	39	71	6	14

Code Series

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition			
		Adjusted	No Violation	Dropped	Pending
Sulphonated Oil Mfg. Ind.	3	1	2		
Surgical Distributors Trade	9	3	5		1
Surgical Dressing Industry	10	5	4	1	
Structural Steel & Iron Fabricating Industry	22	4	16	2	
Table Oil Cloth Industry	6		4		2
Tag Industry	18	4	12	1	1
Talc & Soapstone Ind.	3		2	1	
Tank Car Service	1	1			
Tanning Extract Industry	1		1		
Terra Cotta Industry	2		2		
Textile Bag Industry	54	16	35	3	
Textile Examining, Shrinking, and Refinishing Industry	2	2			
Textile Machinery Mfg. Ind.	28	12	14	1	1
Textile Print Roller Engraving Industry	1	1			
Textile Processing Industry	102	34	44	15	9
Throwing Industry	55	9	30	12	4
Toll Bridge Industry	5		3	2	
Toy & Playthings Industry	285	96	103	69	17
Trailer Mfg. Industry	14	7	3	1	3
Transit Industry	220	55	109	36	20
Transparent Materials Convertors Industry	6	2	2		2
Trucking Industry	3557	1421	1412	413	311
Umbrella Mfg. Industry	24	9	13	2	
Umbrella Frame & Hardware Mfg. Industry	5	1	1	3	
Undergarment & Negligee Ind.	256	100	114	30	12
Underwear & Allied Products Ind.	374	89	219	54	12
Unit Heater & Unit Ventilator Ind.	11	3	5	1	2
Upholstery & Drapery Textile Ind.	36	7	15	10	4
Upholstery Spring & Accessories	20	8	10		2
Upward Acting Door Industry	2		2		
Used Textile Bag Industry	118	53	55	7	3
Used Textile Machinery and Accessories Distributing Ind.	7	1	1	4	1
Used Machinery and Equipment Distributing Industry	7	3	3		1
Vacuum Cleaner Manufacturing	28	11	15	1	1
Valve & Fittings Industry	39	24	14	1	
Vegetable Ivory Button Ind.	2	1	1		
Velvet Industry	6	1	3	1	1
Venetian Blind Industry	8	6	1	1	

Code Series

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION

Total of all Offices, October, 1933 - May, 1935 (Continued)

Codes	Total	Method of Disposition: Adjusted	No Violation	Dropped	Pending
Vitrified Clay Sewer Pipe Mfg.	9	7	2		
Wall Paper Mfg.	9	5	3	1	
Warm Air Furnace Mfg. Ind.	38	17	19		2
Washing & Ironing Machine Mfg. Industry	13	4	8	1	
Watch Case Mfg. Ind.	11	7	1	3	
Waterproof Paper Industry	1		1		
Waterproofing, Dampproofing, Caulking Compound Industry	1	1			
Waxed Paper Industry	10	1	7	2	
Welt Mfg. Ind.	2	1	1		
Wet Mop Mfg. Industry	12	5	3	1	3
Wheat Flour Milling Industry	208	101	59	16	32
Wholesale Automotive Trade	247	107	95	23	22
Wholesale Coal Industry	10	4	5	1	
Wholesale Confectioners Ind.	147	68	53	16	10
Wholesale Food & Grocery Trade	1302	533	571	158	40
Wholesale Fresh Fruit & Vegetable Distributing Trade	594	282	233	36	43
Wholesale Monumental Granite	22	15	5		2
Wholesale Monumental Marble	1		1		
Wholesale or Distributing Trade	1270	606	450	160	54
Charcoal & Package Fuel	44	15	25	2	2
Fur Wholesaling & Distributing Tr.	3	3			
Wholesale Plumbing & Heating Products	45	17	11	15	2
Wholesale Tobacco Trade	108	47	37	10	14
Window Glass Mfg. Industry	3	1	2		
Wine Industry	69	44	15	2	8
Wiping Cloth Industry	70	28	15	22	5
Women's Belt Industry	59	15	27	12	5
Women's Neckwear & Scarf	8	3	2	1	2
Wood Cased Lead Pencil Ind.	6	2	4		
Wood Heel Industry	56	25	23	1	7
Wood Plug Industry	1		1		
Wood Preserving Industry	12	2	9		1
Wood Turning & Shaping Ind.	34	13	14	4	3
Wooden Insulator Pin and Bracket Manufacturing Industry	4	3	1		
Wool Felt Mfg.	5	3	2		
Wool Textile Industry	239	93	127	16	3
Wool Trade	4	2	1	1	
Wrecking & Salvage Industry	329	159	95	46	29
Yeast Industry	8	4	3		1
Not Reported	356	14	10	10	2

Code Series

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES, BY CODE AND METHOD OF DISPOSITION
Total of all Offices, October, 1933- May, 1935 (concluded)

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Included are 14 adjusted, 57 no violation and 43 dropped cases accepted prior to October 19, 1933.

Prepared by:
Statistical Section
Field Division, NRA
March 20, 1936

TABLE IV

NRA STATE OFFICE COMPLAINTS STATISTICS

Twenty-five Codes with Greatest Number of Labor Complaints,-October, 1933-May, 1935

Name of Code	Total	Adjusted	No Violation	Dropped	Pending
Total	90,001	39,930	34,593	11,002	4,476
Restaurant Industry	14,664	6,822	5,073	2,198	571
Retail Food & Grocery	13,620	7,483	4,432	1,136	569
Retail Trade	10,228	4,876	4,302	689	361
Construction Industry	6,977	2,794	2,961	645	577
Motor Vehicle Retail	6,060	3,152	2,163	417	328
Hotel Industry	4,321	1,534	1,771	904	112
Trucking Industry	3,557	1,421	1,412	413	311
Baking Industry	3,340	1,466	1,208	402	264
Motor Veh. Stg. & Pkg.	3,327	1,239	1,201	715	172
Lumber & Timber Products	2,809	762	1,445	493	109
Graphic Arts Industry	2,674	1,013	1,068	400	193
Cleaning & Dyeing Ind.	2,376	861	905	506	104
Motion Picture Industry	1,944	725	888	232	99
Barber Shop Trade	1,620	821	563	216	20
Boot & Shoe Industry	1,584	583	770	103	128
Whse. Distributing Trade	1,317	624	475	162	56
Whse. Food & Grocery	1,302	533	571	158	40
Retail Solid Fuel	1,273	495	590	97	91
Cotton Garment Industry	1,160	546	466	127	21
Laundry Industry	1,041	253	387	347	54
Ice Industry	1,033	423	442	123	45
Shoe Rebuilding Trade	998	356	386	225	31
Fabricated Metals	961	410	391	92	68
Scrap Iron-Non Ferrous Met.	911	380	350	106	75
Furniture Mfg.	904	358	303	96	77

Prepared by: Statistical Section,
Field Division, NRA
March 20, 1936
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Interpretation of size figures should be made only after reference to census data to ascertain the typical size of establishments covered by the codes. It should be borne in mind that the figures are very heavily weighted with complaints against firms in the Service and Distributing Trades, which would characteristically show a small number of employees.

(a) Limitations of the Reporting Sample. There are limitations in the size of the reporting sample. Of the total labor complaints, cases in which the size of the respondent's organization was not reported constituted 36.1 per cent. For individually operated establishments, using one case per establishment, 34.7 per cent of the establishments show no size data for labor cases. For all cases against chains and combinations 20.4 per cent were not reported. Adjusted labor cases showed 27.7 per cent cases not reported, as contrasted with 38.8 per cent for no violation cases, 56.9 per cent for dropped cases, and 34.1 per cent for pending cases.

The percentage of units reported as belonging to chains and combinations to total reported cases is 3.7. Using only first complaints against respondents chains and combinations comprise 2.8 per cent. Chains comprise 2.6 per cent and branch plants and sales offices two-tenths-of-one per cent. These figures for branch plants and branch sales offices are probably low because the symbals for reporting these were not included in the original instructions. The figures for chains are probably somewhat low also, as five states reported no data on chains.

(b) Individually Operated Establishments.

This count is based on individually operated establishments, and represents experience for all State Offices combined. It includes all normal cases, but differs from the basic figures shown in Table I, by the number of chains and combinations which have been reported separately. First and successive complaints against respondents are shown separately. First complaints present a measure of size of respondents based on one entry per establishment regardless of the number of successive complaints against that establishment. The 257 labor cases first classified as trade practice and subsequently found to be labor are not included.

The summary of size figures for independently operated establishments shows that the most typical respondent employed from 2 to 5 employees. Discounting cases in which size was not reported, 34.6 per cent of the total cases were shown as having 2 to 5 workers. Fifty per cent of the cases had approximately 6 or fewer employees. The ration of employees to establishments in the 60 largest industries covered by the codes was 8.2 (*) These figures are weighted by the 31 manufacturing codes in which the average was 49.5 employees. Service trades showed an average

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(*) Scope of Industries under approved Codes, Post Code Analysis Publication No. 60, March 25, 1934, and supplements No. 60-A, May 4, 1934, and No. 60-B, October 6, 1934.

TABLE V

NRA STATE OFFICE COMPLAINT STATISTICS

SIZE OF ESTABLISHMENT - INDEPENDENTLY OPERATED ESTABLISHMENTS

Labor Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Number of employees in unit	Total		Adjusted		No Violation		Dropped		Pending	
	First Complaint	Multiple Complaints	First Complaint	Multiple Complaints	First Complaint	Multiple Complaints	First Complaint	Multiple Complaints	First Complaint	Multiple Complaints
Total	90,314	23,327	38,311	9,780	36,740	8,770	10,381	3,957	4,884	1,418
No employees	1,627	89	509	30	1,019	51	81	5	18	3
One employee	5,110	400	2,637	195	1,811	139	459	44	203	22
2-5 employees	22,083	3,176	11,150	1,639	7,766	1,053	2,020	307	1,149	175
6-10 "	12,144	2,904	5,875	1,444	4,594	998	933	283	742	179
11-25 "	8,755	2,616	4,052	1,320	3,455	893	678	233	570	170
26-50 "	4,093	1,695	1,766	811	1,685	587	332	180	310	117
51-100 "	2,283	1,094	915	501	994	443	198	96	176	54
101-200 "	1,393	889	537	381	664	305	94	81	98	62
201-500 "	958	673	355	288	495	307	59	51	49	27
501-1000 "	273	189	108	54	139	121	14	9	12	5
1001-5000 "	203	207	57	35	121	162	14	7	11	3
Over 5000 "	21	147	8	115	11	25	-	6	2	1
Not reported	31,371	9,908	10,342	2,967	13,986	3,686	5,499	2,655	1,544	600

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section,
Field Division, NRA
March 14, 1936

State Office Series

TABLE VI

N. R. A. STATE OFFICE COMPLAINT STATISTICS

SIZE OF ESTABLISHMENT - CHAINS OR COMBINATIONS

Labor Code Cases, Total of First and Successive Complaints against Respondents, all Offices, October, 1933-May, 1935 a/

Number of employees in units of Chains and Combinations	Total	Total number of establishments	Adjusted	No Violation	Dropped	Pending
Total	4,436	2,521	2,150	1,800	327	159
No employees	6	2	1	3	1	1
One employee	51	42	29	18	3	1
2 to 5 emp.	984	591	560	364	28	32
6 to 10 "	694	411	379	266	24	25
11 to 25 "	634	395	310	254	43	27
26 to 50 "	368	216	192	140	14	22
51 to 100 "	286	153	127	130	20	9
101 to 200 "	160	100	77	66	12	5
201 to 500 "	147	65	62	65	13	7
501 to 1,000 "	50	30	14	33	3	-
1,001 to 5,000 "	105	21	48	57	-	-
Over 5,000 "	38	7	19	18	1	-
Not Reported	913	488	332	386	165	30

a/ The offices were officially active from October 19, 1933 to May 27, 1935

Prepared by:
Statistical Section,
Field Division, NRA
March 14, 1936

of 4.8 employees per establishment, and the average for 11 Distributing codes was 3.6. A miscellaneous group of 11 codes including Trucking and Construction showed an average of 11.1 employees.

The largest number of complaints reported were under the Restaurant Code and the second largest under the Retail Food and Grocery. The ratio of employees to establishments in these industries were 4.1 and 4.4, respectively. Labor complaints reported in 11 Service trades totalled 25,758, or 21.7 per cent of the total labor complaints.

A large number of complaints against establishments with no employees are shown not to be actual violations.

Investigation of original reports shows that a large proportion of adjusted complaints against establishments having no employees were Barber Shop cases.(*) A number of these concerned labor poster violations. The majority of these were reported by the Massachusetts Office.

5. Establishments Operated as Units of Chains or Combinations.

Separate compilations of figures were made for establishments operated as units of chains or combinations, so that these might be distinguished from independent units, in determining the typical violator, and also in measuring the incidence of wage restitution payments on small establishments (See Table VI).

A total of first and successive complaints against respondents is most representative for chains since complaints against a series of units belonging to chains were usually carried on one docket number. Additional data showing counts for local, sectional, national chains, branch plants and branch sales offices are available in the records of the Field Division.

6. Source of Labor Complaints. A summary showing typical source of complaints docketed by the 54 State Offices, appears in Table VII.

The totals are based on all normal labor complaints docketed by State Offices, (excluding 237 cases originally reported as labor cases and subsequently found to be trade practice cases). Cases subsequently referred to the code authority, either on reference or in the first instance, are excluded, unless they were again returned to the State Office for action. There were relatively few instances of that type.

Grand totals of 54 state offices show that approximately the same number of adjusted complaints were filed by present employees and former employees. There were, however, marked differences in the proportions reported by individual offices. For example, New York shows 404 adjusted cases concerning present employees, as compared with 929 concerning

(*) Note there is some question as to whether Barber Shop cases might properly be considered code cases, since the labor provisions were contingent upon the putting into effect of trade practice area agreements which were never made.

TABLE III

N.R.A. STATE OFFICE COMPLAINT STATISTICS

SOURCE

Labor Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Source of Complaints	Total Cases	Adjusted	No Violation	Dropped	Pending
All sources	118,677	50,240	47,312	14,663	6,462
Anonymous	7,846	2,021	4,308	1,141	376
Employee (status unknown)	8,209	2,928	3,763	1,179	339
Present employee	27,794	13,122	10,412	2,759	1,501
Former employee	29,880	13,983	10,018	3,545	2,334
Competitor	2,959	939	1,586	331	103
Office staff	14,388	7,885	5,029	885	589
Code authority	6,288	2,288	2,639	912	449
State agency	1,245	501	512	152	80
Gov't purchasing agency	317	142	137	8	30
Labor union	4,085	1,609	1,879	423	174
Trade association	781	272	389	87	33
Other sources	13,137	4,399	6,456	1,877	405
Source unknown	1,748	151	184	1,364	49

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Also included are 14 adjusted, 57 no violation, and 43 dropped cases accepted prior to October 19, 1933.

Prepared by:
Statistical Section,
Field Division, NRA
March 3, 1936

9861

former employees. Indiana showed 282 adjusted cases concerning present employees and 678 concerning former employees. On the other hand, Massachusetts showed 725 adjusted cases against present employees compared with 479 a ainst former employees. The relationship is evidently affected by the mass compliance program. It seems probable that there were inherent differences in reporting between offices, since San Francisco reports .5 per cent while, Los Angeles shows 66.0 per cent cases against former employees as compared with the total of former and present employees.

B. Compliance Factors. The tables which have been reviewed above show general totals which disclose the magnitude of the compliance problems, and illustrate the general characteristics of it. Figures were cited to show the provisions most frequently violated, the source of the complaints, the size of the respondent's establishment, and the proportion of employees affected by violation. These show general statistics of administration of labor regulations.

The following group of tables is devoted specifically to the problems of securing compliance. The figures can show only the observed results in terms of wage restitution collected, and in terms of the amount of time invested in adjusting cases, with additional data on methods used in closing cases.

(a) Wage Restitution. The Compliance Division attempted to secure restitution for both hour and wage cases. The amount by which payments had failed to equal the code minimum was usually more easily ascertained, in spite of falsified records, than the correct amount due for overtime. The issue concerning overtime was confused, since many codes provided no legal rate for overtime. The Compliance Division, however, made an effort to secure compensation with a penalty rate for illegal overtime worked.

In the analysis of cases made after the Schechter decision, an effort was made to confine wage restitution figures to money which was actually paid.(*)

National totals for the amount of wage restitution collected, and the number of employees paid, in labor adjusted cases are shown in summary in Table VIII. These figures represent collections from October 19, 1933, to May 27, 1935, the period during which NRA State Offices were officially active. Included also are 25 cases accepted prior to October 19, 1933, by other agencies for NRA.

1. Qualifications. The total of $3,611,739.81 reported in the present survey is to be contrasted with the cumulative total of statistical reports between June 16, 1934, and May 27, 1935, of $3,461,186.94 on

(*) Instructions dated July 10, 1935, stated that amounts of restitution reported on adjusted cases should include amounts in money or negotiable instruments actually secured from the respondent. The figure for number of employees receiving restitution was to represent those actually receiving restitution, or in behalf of whom restitution funds were collected by the State office including employees not located.

code cases. That the inclusion of figures for eight additional months makes a negligible difference in the total is the result of the fact that survey figures represent actual payments, while bi-weekly reports were sometimes inflated by inclusion of money due but not yet paid, because the offices were attempting to make a good efficiency rating.

Figures reported here represent money collected on adjusted cases only. A small proportion, probably not over 5 per cent of the total of $140,648.76 wage restitution collected on compromised cases, represents collections on dropped and pending cases which should be added to the figures quoted above to give total sums collected.

There is an additional qualification that wage restitution funds in the possession of NRA State Offices on May 27, 1935, but not disbursed to employees subsequently, are included in the totals quoted.

Furthermore, the totals include $235,908.11 paid in notes. This represents 6.5 per cent of the total collected on adjusted cases. Notes were used as the method of payment in 941 or 2.9 per cent of the cases. Notes have been counted at full value, although there is a possibility of default, particularly on any notes outstanding on May 27, 1935.(*)

The figure of $112.16 reported as the average amount of restitution per case is an abnormally high figure affected by some extremely large cases. For example, reference to Table IX shows that the largest number of establishments paying wage restitution employed from 2 to 5 workers, and that the average per case in this group was $48.59. The arithmetic average cited above is influenced by 10 cases in establishments employing over 5,000, and averaging $601.00 per case, and by 142 cases, in firms with 501-1000 workers in which an average of $523.66 per case was paid.

2. Proportion of Cases in which Restitution was Not Collected. As shown in Table VIII, there were 17,414 cases in which no figures were quoted for amounts of wage restitution paid, or number of employees affected. These constitute 34.4 per cent of the total number of adjusted cases shown in Table VIII. In addition, there were 855 cases in which no amount of restitution was reported, although the number of employees receiving restitution was shown.

One approach to the problem of measuring the extent to which restitution might have been collected in the 17,414 cases is to examine the figures for the numbers of hour and wage violations in proportion to the total number of cases. As shown in Table II, a total of 85,235 adjusted labor violations occurring in 50,311 cases were reported. Of these violations 39,769 or 46.7 per cent were hour violations, 40,754 or 47.8 per cent were wage violations, and 4,712 or 5.5 per cent were violations of general provisions.

(*) The figure for amount paid in notes is inflated slightly by the fact that only one method of payment could be tabulated for a case. Those cases in which both notes and cash were used were tabulated with the entire amount under notes.

Nearly all hour and wage violations are of the type which should carry wage restitution. To ascertain the number of cases which should carry wage restitution, however, an unduplicated count of cases involving either hour or wage violations or both is required. This figure is not available and can be approximated only by observing that there were 34,228 adjusted cases involving hour violations, and 16, 083 in which there were no hour violations. There were also 37,629 adjusted cases involving wage violations and 12,682 cases in which no wage violations occurred. Since restitution was collected in a maximum of 33,153 cases, there were 4,476 cases in which compensation for wage violations were not obtained. Using the same reasoning, there were 1,075 cases in which hour violations were not compensated. If we make the most conservative assumption possible and consider that all the uncompensated hour cases occurred in cases in which wage violations were also uncompensated, we have a minimum of 4,476 adjusted cases in which wage restitution might have been obtained, but no collections were made.

3. Wage Restitution, by Size of Establishment. A study of the amount of wage restitution paid by individually operated establishments and by units belonging to chains and combinations, according to size of establishment was made on the basis of figures reported by ten offices.(*)

The tables were based on all types of code cases, that is, normal code cases, cases received by State Offices from Compliance District Offices, reported cases sent on reference to Code Authorities prior to June 16, 1934, Boot and Shoe Cases originating in the New England mass compliance program, and duplicate entries for payment of wage restitution in kind. Both first and successive complaints against respondents are used.

The Tables show restitution amounting to $832,339.87. Of this $801,476.96 or 96.3 per cent was reported as paid by individually operated establishments and $30,862.91 or 3.9 per cent was reported as paid by units of chains or combinations. Payments by individually operated establishments were made in 7,073 cases or 96.2 per cent, and in units of chains and combinations by 276 cases or 3.8 per cent. It seems probable that the figures for chains and combinations is low, and that there are additional units belonging to chains or combinations which were reported without special designation and so have been included with individually operated establishments.

Table IX presents data on independent establishments only.

4. Wage Restitution Summary. After a review of the figures one is impressed with the practical difficulties of the problem of obtaining wage restitution for all hour and wage violations that were docketed. The fact that the majority of the cases were against establishments employing 2 to 5 workers, and that in these establishments all

(*) Table, IX Amount of Restitution and Number of Employees Paid, by Size of Independently Operated Establishments, Ten Selected Offices.

TABLE XXXII

NRA STATE OFFICE COMPLAINT STATISTICS

AMOUNT OF RESTITUTION AND NUMBER OF EMPLOYEES PAID, BY SIZE OF INDEPENDENTLY OPERATED ESTABLISHMENTS

Labor Adjusted Code Cases, Total of 10 Selected Offices, October, 1933 - May, 1935 a/

Size of independently operated establishments	Number of cases	Amount paid (Dollars)	Employees paid	Averages: Amount per employee (Dollars)	Averages: Amount per case (Dollars)	Averages: Employees per case
Total	7,073	801,476.96	41,742	19.20	113.31	5.9
No employees	-----	----------	-----	-----	------	---
One employee	439	18,269.90	471	38.79	41.62	1.1
2-5 employees	2,125	103,898.79	3,740	27.78	48.89	1.8
6-10 "	1,434	95,539.60	3,181	30.03	66.62	2.2
11-25 "	1,145	121,564.79	5,089	23.89	106.17	4.4
26-50 "	655	115,661.44	6,629	17.45	176.58	10.1
51-100 "	344	84,256.26	6,497	12.97	244.93	18.9
101-200 "	217	95,060.50	6,714	14.16	433.46	30.9
201-500 "	142	75,070.35	5,495	13.66	528.66	38.7
501-1000 "	23	6,580.02	488	13.48	286.09	21.2
1001-5000 "	10	6,010.95	158	38.04	601.10	15.8
Over 5000 "	-----	----------	------	-----	------	---
Not reported	539	79,564.36	3,230	24.26	147.61	6.1

a/ The selected offices are: Delaware, District of Columbia, Maryland, New Jersey, North Carolina, Philadelphia, Pittsburgh, Virginia, Massachusetts and Minnesota. The offices were officially active from October 19, 1933, to May 27, 1935.

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Field Division, NRA
March 12, 1936

employees tended to have experienced hour or wage violations or both, made it difficult to secure restitution from the respondent. Payroll records to establish the extent of the violation were often inadequate, and compromise, usually informal in such cases, had to be adopted. For the cases adjusted, the payment of an average of $24.05 per employee and agreement for future compliance was a boon to the individuals.

The problem of wage restitution collections have been discussed in Chapter V of Section 19. The above observations have been inserted here only to give emphasis to the reported figures.

5. Time Element in Closing Complaints. Special attention was given to the time factors in the problem of handling complaints. First, information on time elapsed between docketing the complaint, and starting the investigation was reported. (Table X) Second, the elapsed time between the beginning of the investigation and the final closing of the case was indicated. (Table XI) From these figures it was possible to compute an average for the number of days elapsed before action was begun, and a second average for time elapsed in closing the case after the investigation started.

6. Method of Closing Labor Cases. Cases included in this table are normal cases investigated by the State Offices, excluding cases sent on reference to the Code Authority prior to June 16, 1934. Both first and successive complaints against respondents have been included, but certain categories of cases used in preceding tables have been omitted from the present table. Among these are 438 adjusted cases and 144 no violation cases, which were cross-referenced to another case, and in which the method of closing was reported under that case. Cases docketed prior to October 19, 1933, were also omitted.

In the reporting of cases, offices were instructed to show the method deemed most effective in closing the case. For example, if both correspondence and the field adjuster were used, only the activities of the field adjuster were recorded as the method of closing the case. Similarly, office conference was quoted in preference to Field Adjuster. "Court suit instigated by complainant," was not included in the list of methods provided in the instructions, but in five cases notes to this effect were appended. It seems probable that this is not a representative figure.

National totals show that the field adjuster was used in closing 58.2 per cent of the adjusted cases and 50.2 per cent of the no violation cases. Correspondence was effective in closing 28.0 per cent of the no violation cases as compared with 14.8 per cent of the adjusted cases.

TABLE X

N.R.A. STATE OFFICE COMPLAINT STATISTICS

Time Elapsed between Docketing and First Action

Labor Code Cases, Total of all Offices, October, 1933 - May, 1935. a/

Days elapsed between docketing and first action	Total	Adjusted	No Violation	Dropped	Pending
Total	118,675	50,238	47,312	14,663	6,462
Action on day of receipt	17,263	9,225	6,079	1,182	777
1 day	18,494	8,556	6,782	1,964	1,192
2 days	12,212	4,969	5,229	1,237	777
3 days	7,845	3,375	3,109	871	490
4 days	7,142	2,927	2,994	754	467
5-7 days	19,025	7,405	8,128	2,400	1,092
8-10 days	10,472	4,096	4,420	1,428	528
11-14 days	8,133	3,314	3,472	998	349
15-28 days	10,445	4,174	4,443	1,440	388
Over 28 days	4,628	1,761	2,067	607	193
Not reported	3,016	436	589	1,782	209

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Included are 14 adjusted, 57 no violation, and 43 dropped cases accepted prior to October 19, 1933.

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March 3, 1936

9861

TABLE XI

N.R.A. STATE OFFICE COMPLAINT STATISTICS

TIME ELAPSED BETWEEN FIRST ACTION AND CLOSING

Labor Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Time elapsed between first action and closing	Total	Adjusted	No Violation	Dropped
Total	112,215	50,240	47,312	14,663
Closed on day of receipt	6,609	3,968	2,339	302
1-6 days	19,414	9,574	8,571	1,269
7-13 days	14,687	6,629	6,798	1,260
14-20 days	11,454	5,120	5,398	936
21-30 days	13,632	6,065	6,225	1,342
31-45 days	12,485	5,567	5,616	1,302
46-90 days	17,999	7,827	7,413	2,759
91-182 days	9,892	3,942	3,603	2,347
6-12 months	3,687	1,293	1,069	1,325
13-18 months	151	59	24	68
Over 18 months	15	13	1	1
Not reported	2,190	183	255	1,752

a/ The offices were officially active from October 19, 1933 to May 27, 1935. Also included are 14 adjusted, 57 no violation and 43 dropped cases accepted prior to October 19, 1933.

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March 3, 1936

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TABLE XII

NRA STATE OFFICE COMPLAINT STATISTICS

METHOD OF CLOSING

Labor Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Method of Closing	Total Cases	Total Percentages	Adjusted Cases	Adjusted Percentages	No Violation Cases	No Violation Percentages
Total of all methods	96,897	100	49,785	100	47,112	100
Correspondence	20,579	21.3	7,381	14.8	13,198	28.
Field Adjuster	52,579	54.3	28,959	58.2	23,620	50.2
Office Conference	19,249	19.9	10,811	21.7	8,438	17.9
State or Local Adjustment Board	749	.7	500	1.0	249	.5
Code Authority	2,440	2.5	1,489	3.0	951	2.0
State Agency (Dept. of Labor, etc.)	567	.6	268	.6	299	.6
Court suit instigated by complainant	5	.0	4	.0	1	.0
Unknown	729	.7	373	.7	356	.8

a/ Offices were officially active from October 19, 1933 to May 27, 1935

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February 1, 1936

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Section 3. Trade Practice Complaints.

A. Nature of Violation, Trade Practice Cases. The relative administrative difficulty arising from trade practice provisions is reflected in the summary figures showing the total number of violations, by class of provision violated, as presented in Table XIV.

A separate analysis by type of violation has been prepared for each code and each supplementary code in which violations have been investigated by State Offices. (*)

In using these figures as an index of the total difficulty with given trade practice provisions, allowance must be made for the even greater volume of trade practice complaints handled by the Code Authorities. (**) Furthermore, general limitations discussed in the introductory section are equally applicable in studying this data. For example, trade practice figures are a particularly unsatisfactory index of compliance, because they are markedly affected by sporadic efforts on the part of Code Authorities to enlist the aid of the State Offices in securing price filings, statistical reports, or the use of labels.

The interpretation of the figures for individual types of violations has been left to the Trade Practice Studies Section of the Division of Review. (***)

(*) Copies of analyses of individual codes are available for inspection in the records of the Field Division of NRA. Additional copies were distributed to the Industry and Trade Practice Studies Section, and to the Code History Section for inclusion in the copies of the histories.

(**) On April 30, 1935, there were 493 codes and supplementary codes officially authorized for the handling of trade practice complaints. Somewhat incomplete reports from Code Authorities for the 60 major codes (chosen on the basis of size) and their supplements for a reporting period July 7, 1934, to May 25, 1935, showed 198,707 trade practice complaints. The figures are affected by serious discrepancies in definition and reporting periods, but are cited only to indicate that the volume of trade practice complaints handled by code authorities was in excess of that handled by state offices.

(***) Report of Price Filing Unit, Chapter VI, contains an analysis of the proportion of price filing violations to total violations. Report of Commodity Information Unit also contains an analysis of trade practice complaint statistics.

TABLE I

NRA STATE OFFICE COMPLAINT STATISTICS

Number of Trade Practice Cases Investigated, - October, 1933 - May, 1935 a/

Offices by Region	Case Count					First complaint against respondents				
	Docketed	Adjusted	No Violation	Dropped	Pending	Docketed	Adjusted	No Violation	Dropped	Pending
Total all Offices	36,425	19,674	8,094	5,295	3,362	31,958	17,243	6,920	4,888	2,907
Total, Region 1	2,596	1,194	989	62	351	2,212	1,013	866	52	281
Maine	171	85	70	9	7	148	76	59	9	4
New Hampshire	114	51	50	2	11	102	47	45	1	9
Vermont	34	20	3	-----	11	31	17	3	-----	11
Massachusetts	1,622	739	629	31	223	1,388	623	549	27	189
Rhode Island	264	104	85	6	69	197	81	71	3	42
Connecticut	391	195	152	14	30	346	169	139	12	26
Total, Region 2	10,098	5,320	1,091	2,873	814	9,716	5,092	1,022	2,824	778
Albany, N.Y.	1,302	762	223	222	95	1,087	615	191	202	79
Buffalo, N.Y.	1,043	624	304	56	59	930	565	273	45	47
New York, N.Y.	7,753	3,934	564	2,595	660	7,699	3,912	558	2,577	652
Total, Region 3	5,009	2,382	1,326	773	528	4,290	2,041	1,156	670	423
New Jersey	1,174	745	246	45	138	989	645	196	40	108
Philadelphia, Pa.	1,042	473	339	121	109	865	396	298	104	67
Pittsburgh, Pa.	736	430	185	50	71	577	347	137	38	55
Delaware	188	63	100	7	18	181	59	97	7	18
Maryland	919	181	149	502	87	783	146	130	434	73
District of Col.	249	175	65	2	7	230	156	65	2	7
Virginia	499	219	207	4	69	472	200	200	4	68
North Carolina	202	96	35	42	29	193	92	33	41	27
Total, Region 4	1,858	1,047	288	283	240	1,573	920	235	218	200
South Carolina	168	70	53	42	3	129	54	41	31	3
Georgia	319	180	64	54	21	243	141	50	38	14
Florida	232	102	29	8	93	205	87	21	7	90
Tennessee	533	294	26	141	72	473	277	25	121	50
Alabama	206	171	22	-----	13	203	169	21	-----	13
Mississippi	70	23	26	18	3	56	20	23	10	3
Louisiana	330	207	68	20	35	264	172	54	11	27
Total, Region 5	3,237	1,486	828	224	699	2,717	1,205	703	181	628
Michigan	914	490	200	132	92	719	378	155	116	70
Ohio	1,711	791	573	21	326	1,459	655	501	14	289
West Virginia	98	60	30	3	5	91	56	28	2	5
Kentucky	514	145	25	68	276	448	116	19	49	264

TABLE I

NRA STATE OFFICE COMPLAINT STATISTICS

Number of Trade Practice Cases Investigated, - October, 1933 - May, 1935 a/

Offices by Region	Case Count					First complaint against respondents				
	Docketed	Adjusted	No Violation	Dropped	Pending	Docketed	Adjusted	No Violation	Dropped	Pending
Total, Region 6	2,812	1,436	672	471	233	2,404	1,245	566	400	193
Wisconsin	350	177	65	86	22	283	138	57	71	17
Indiana	762	471	114	127	50	710	444	106	114	46
Illinois	1,381	669	408	151	153	1,149	564	334	128	123
Missouri	319	119	85	107	8	262	99	69	87	7
Total, Region 7	3,348	2,258	750	275	65	2,900	1,981	606	266	47
Minnesota	304	234	60	6	4	249	194	47	5	3
Iowa	540	346	173	14	7	470	306	147	14	3
North Dakota	152	77	56	13	6	144	73	54	13	4
South Dakota	112	67	24	12	9	79	41	19	12	7
Nebraska	714	493	220	---	1	561	403	157	---	1
Kansas	364	202	90	66	6	351	194	85	66	6
Wyoming	709	583	36	80	10	662	548	28	79	7
Colorado	453	256	91	84	22	384	222	69	77	16
Total, Region 8	1,938	1,167	562	119	90	1,458	886	396	103	73
Arkansas	199	116	73	1	9	148	85	56	---	7
Oklahoma	399	233	87	70	9	340	190	76	67	7
Dallas, Texas	736	468	183	36	49	483	316	102	25	40
Houston, Texas	542	302	208	9	23	433	254	152	8	19
New Mexico	62	48	11	3	---	54	41	10	3	---
Total, Region 9	5,529	3,384	1,588	215	342	4,688	2,860	1,370	174	284
Montana	251	104	124	16	7	210	81	112	14	3
Idaho	220	123	97	---	---	170	100	70	---	---
Utah	102	64	27	4	7	91	57	25	2	7
Nevada	294	212	36	46	---	264	192	30	42	---
Arizona	80	41	34	1	4	52	20	28	1	3
Washington	837	533	263	5	36	682	419	227	3	33
Oregon	483	303	133	7	40	392	254	101	4	33
Los Angeles, Calif.	1,839	1,002	599	71	167	1,607	860	550	58	139
San Francisco, Calif.	1,423	1,002	275	65	81	1,220	877	227	50	66

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section
Field Division, NRA
March 6, 1936

It should be pointed out that the experience of individual codes, with almost identical provisions, has varied widely, Twelve codes were found to be responsible for more than half of the reported instances in all codes of failure to adhere to filed prices, and for 36.9 per cent of the violations of failure to file prices. Interpretation of the summary figures, accordingly, is dependent upon a study of complaints, and their concentration by code, and the contribution of each code to the total violations of a given type of provision. See table XV for a list of the 25 codes with the largest number of trade practice complaints.

B. Case Coverage The figures included in table XIV are based on normal cases under codes, excluding any cases sent on reference to Code Authorities prior to June 16, 1934.

C. Violations Each violation is shown against the classification under which the provision violated was placed. The sum of the violation is, accordingly, equal to or greater than the total number of cases docketed.

D. Method of preparation An analysis of each trade practice case file was transmitted to Washington by the State NRA office, the information being recorded partly in symbols and partly in descriptive words. Except for four types of code provisions, data on the nature of the violation or alleged violation was furnished by reference to the article and section of the code concerned. The provisions were assigned to a particular classification by the Washington staff. This method was made necessary by the complexity of the regulations and the variety in the language used. As will be seen below, a certain amount of detail was necessarily lost.

Problems encountered in classifying provisions.

The difficulties encountered in making a completely accurate classification of trade practice provisions may be divided generally into two groups.

(a) Those arising from the numerous refinements and variations of provisions of a similar nature in different codes. In such cases, all similar violations have been grouped together, as far as possible, under a single heading indicating the general nature of the practice which was the common object of regulation.

(b) Those arising from the fact that in a number of codes, several kinds of trade practices were made the subject of regulation in a single section or subsection of the code. It was impossible, therefore, when reference was made to one of these provisions, to know which of the regulations had been violated. In such cases, violations were arbitrarily assigned to the most common kind of practice included in the section.

The principal classification difficulties which were encountered in classifying the practices occurred in connection with the topics listed below. An examination of these problems will throw light on the general value of the data, and will also serve to indicate the content of the headings listed.

(1) Prohibition of "destructive price cutting" was in many codes included in the same section with prohibition of "sales below cost." Thus it was not possible to determine which prohibition had been violated. Since "destructive price cutting" was in these cases a vague and undefined concept, and since cost was an important element in determining the "destructive" nature of a price, violations of such sections were assigned to the prohibition of "sales below cost".

(2) In classifying violations of "sales below cost" provisions, a distinction was made between provisions prohibiting sales below a cost

Chart II

N.R.A. State Office Trade Practice Complaints

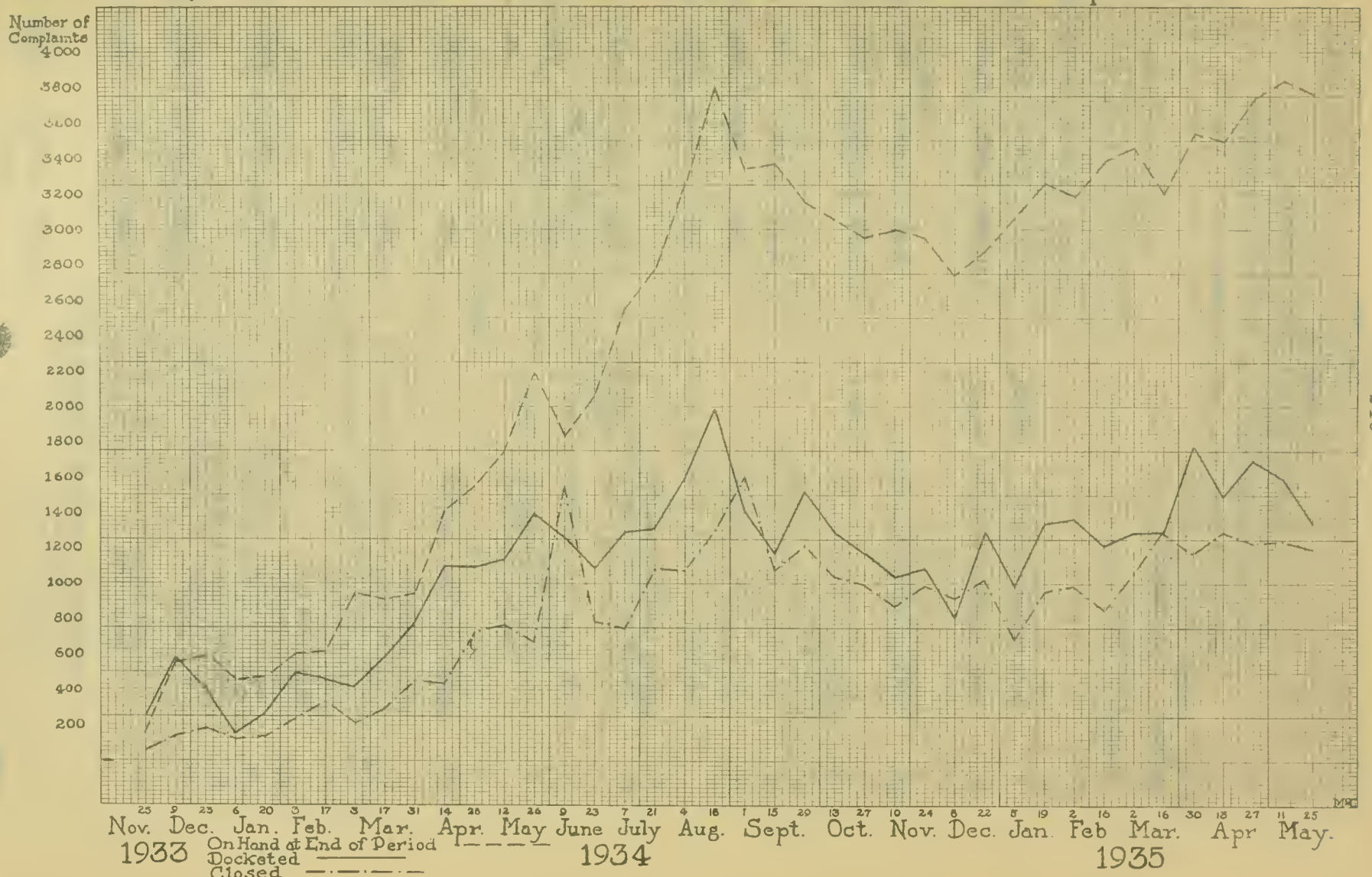

TABLE XX

NRA STATE OFFICE COMPLAINT STATISTICS

VIOLATIONS OF TRADE PRACTICE AND ADMINISTRATIVE PROVISIONS

Total of all codes for all offices, October, 1933, - May, 1935 a/

CODE NAME U. S. SUMMARY

Alphabetical Symbol

		ADJUSTED	NO VIOLATION	DROPPED	PENDING
	TOTAL NUMBER OF CASES 36,425	19,674	8,094	5,295	3,362
	TOTAL NUMBER OF VIOLATIONS 41,197	21,960	9,205	6,152	3,880
	STATISTICAL REPORTING				
27	(1) Failure to file statistics	3,550	1,229	888	1,508
	(2) Failure to file labor statistics	69	30	10	14
	PRICE FILING				
28	(1) Failure to file prices	4,060	1,709	863	550
	(2) Failure to post prices	233	56	152	4
	(3) Failure to file rates and tariffs	942	261	256	227
	MAXIMUM AND MINIMUM PRICES				
29	(1) Sales below minimum prices specified by code or Code Authority	336	129	218	10
	(2) Sales below emergency prices established	440	135	103	31
	(3) Failure to comply with "Limitation-on-Price-Increase"	124	37	27	5
30	DESTRUCTIVE PRICE CUTTING	249	171	64	12
	PRICE ADHERENCE				
31	(1) Failure to adhere to filed prices	392	135	101	60
	(2) Failure to adhere to posted prices	176	73	93	6
	SALES BELOW COST				
32	(1) Sales below cost (manufacturing and non-distributing industries)	741	483	248	79
33	(2) Violations of mark-up and loss-limitation provisions (distributing trades)	2,225	907	325	84
34	(3) Cost determination (Graphic Arts Industries)	93	56	62	7
	(4) Failure to establish individual cost-accounting system and miscellaneous costing violations	75	52	13	6

TABLE XX (Cont'd)

Alphabetical Symbol_____

NRA STATE OFFICE TRADE PRACTICE COMPLAINT STATISTICS - Page 2

		ADJUSTED	NO VIOLATION	DROPPED	PENDING
35	RESALE PRICE MAINTENANCE Provision requiring adherence by customers or salesmen to: (1) Members' published prices	2	2	---	---
	(2) Minimum price provisions	4	---	---	4
	(3) Manufacturer's or wholesaler's published prices	48	19	11	5
36	DISCOUNTS (1) Cash	59	24	12	6
	(2) Quantity (in one order or shipment)	10	1	---	---
	(3) Volume (over a period of time)	20	16	---	4
37	CREDIT TERMS	14	19	6	4
38	CONTRACTS (1) Non-enforcement of contracts	17	15	5	5
	(2) Failure to file with Code Authority contracts ante-dating, and excepted from, emergency price provisions	11	1	4	1
	(3) Adjustment of prior contracts	21	18	3	2
39	FALSE AND INADEQUATE AGREEMENTS OR DOCUMENTS	108	48	13	24
40	BIDDING (1) Failure to file bids	432	178	121	189
	(2) Bid peddling and shopping	55	36	4	5
	(3) Collusion in bidding	5	4	---	---
	(4) Other bidding practices	81	37	7	15
41	IMPROPER AWARDING OF BIDS	100	49	18	25

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TABLE XX (Cont'd)

Alphabetical Symbol_____

NRA STATE OFFICE TRADE PRACTICE COMPLAINT STATISTICS - Page 3

		ADJUSTED	NO VIOLATION	DROPPED	PENDING
42	CONDITIONAL SALES				
	(1) Consignment sales	78	23	7	5
	(2) Other conditional sales	16	7	1	2
43	RETURNED GOODS				
	(1) Accepting returned goods	8	3	1	1
	(2) Allowances for returned goods	26	4	--	--
44	EXCESSIVE TRADE-IN ALLOWANCE	102	88	67	13
45	ALLOWANCES				
	(1) Advertising allowances	7	4	--	1
	(2) Allowances for definite service	---	2	--	--
46	PRICE GUARANTEES				
	(1) Price guarantees (definite prohibition)	22	18	--	2
	(2) Other provisions re price guarantee except guarantee of product	1	--	--	4
47	PRODUCT GUARANTEES	61	30	6	2
48	TRANSPORTATION CHARGES				
	(1) Transportation charges	75	15	1	--
	(2) Basing point provisions	1	--	--	1
49	PREMIUMS, LOTTERIES, ETC.				
	(1) Giving premiums, coupons, etc.	155	33	10	3
	(2) Lotteries	172	39	7	12
	(3) Contests	6	--	2	2
	(4) Auctions	19	4	6	1
	(5) All of foregoing in one provision	30	11	3	--
50	FREE GOODS OR FREE DEALS	273	80	40	6

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TABLE XX (Cont'd)

Alphabetical Symbol_____

NRA STATE OFFICE TRADE PRACTICE COMPLAINT STATISTICS - Page 4

		ADJUSTED	NO VIOLATION	DROPPED	PENDING
51	FREE SERVICE				
	(1) Free service or maintenance	39	7	3	2
	(2) Inadequate deposit on equipment	99	21	4	9
52	GIFTS, SUBSIDIES, FINANCIAL ASSISTANCE	9	5	-	3
53	SHIPMENT REQUIREMENTS				
	(1) Requirements relative to time, etc.	-	1	1	1
	(2) Split-box sales at wholesale, etc.	6	-	-	-
54	SALES OF SUB-STANDARD GOODS	61	14	4	5
55	COMMODITY STANDARDS	147	67	147	14
56	LABELING REQUIREMENTS (Except NRA Labele)	151	64	28	15
57	DESIGN AND STYLE PIRACY	30	31	13	---
58	PRODUCTION CONTROL				
	(1) Restrictions on productive capacity	17	12	5	1
	(2) Production quotas (allotments, etc)	24	13	10	---
	(3) Inventory limitations	1	---	1	---
59	HOUR LIMITATIONS				
	(1) Machine, plant hour limitations	80	6	13	---
	(2) Hours of business, Distributing and Banking Codes	204	275	181	9
60	CUSTOMER CLASSIFICATION AND TRADE DIFFERENTIALS				
	(1) Filling customer classification, by class definition or name, and adhering to same	6	1	---	1
	(2) Adherence to customer classes, or restrictions, established by code	6	3	1	1
	(3) Adherence to trade differentials	11	13	1	1
	(4) Limitations relative to salesmen	3	5	7	---

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TABLE XX (Cont'd)

Alphabetical Symbol_____

NRA STATE OFFICE TRADE PRACTICE COMPLAINT STATISTICS - Page 5

		ADJUSTED	NO VIOLATION	DROPPED	PENDING
61	DISCRIMINATION AND SECRET REBATES				
	(1) Discrimination between buyers of same class	92	62	19	5
	(2) Rebates or discounts used as a subterfuge	265	85	42	25
	(3) Monopolizing and discriminating against small enterprises	17	31	5	2
	(4) Splitting fees, commissions	4	1	1	---
62	MARKET PROTECTION				
	(1) Direct sales in competition with retailer or other factor	43	48	4	1
	(2) Extra zone sales	30	21	5	2
	(3) Violation of territorial agency franchise	11	4	4	---
63	COERCION, INTERFERENCE, PREDATORY COMPETITION, COMMERCIAL BRIBERY	304	179	68	57
64	MISREPRESENTATION AND DECEPTION				
	(1) Deceptive selling methods	108	35	17	8
	(2) Deception in filling orders	38	12	12	5
	(3) Inaccurate underselling claims	63	23	17	2
65	ADVERTISING REGULATIONS				
	(1) False, misleading and inaccurate advertising or statements	501	216	66	25
	(2) Inaccurate advertising and defamation of competitor	79	59	112	5
	(3) Advertising regulations in the Retail Trade and Retail Food and Grocery Codes	279	105	16	15
	(4) Restrictions on certain types of advertising	203	35	7	5
66	FAILURE TO PAY CODE ASSESSMENTS	1,285	368	570	179
67	REGISTRATION				
	(1) Registration with Code Authority	329	372	221	99
	(2) Failure to register trucks, buses, etc.	703	144	408	119
	(3) Failure to register new construction	16	2	4	16
9861	(4) Failure to register production, or productive equipment	---	---	---	---

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TABLE XX (Cont'd)

Alphabetical Symbol_____

NRA STATE OFFICE TRADE PRACTICE COMPLAINT STATISTICS - Page 6

		ADJUSTED	NO VIOLATION	DROPPED	PENDING
68	NRA LABELS AND NRA INSIGNIA				
	(1) Failure to use labels or insignia	617	333	255	223
	(2) Provision governing retail sale of manufactured product requiring NRA label	31	10	5	11
	(3) Improper use of labels or insignia	13	1	5	1
	(4) Code members purchasing from firms not displaying insignia	8	5	---	1
	(5) Sales to code violators	11	6	2	---
69	ADMINISTRATIVE				
	(1) Investigation costs	6	4	2	---
	(2) Access to records	---	5	10	---
	(3) General administrative	28	18	5	9
	(4) Zoning and clearing boards-Motion Picture	2	1	---	---
70	LICENSE - ADDRESSES				
	(1) Working without license	57	40	11	15
	(2) Failure to establish business address	57	28	21	3
	(3) Permitting loan or transfer of license	11	8	---	4
71	CERTIFICATE OF COMPLIANCE				
	(1) Failure to file, or filing false certificate - Government Contracts	3	4	3	3
	(2) Failure to file certificate on demand of Code Authority	11	1	5	1
72	MISCELLANEOUS				
	(1) No code provision applicable	17	53	24	1
	(2) Failure to comply with Workmen's Compensation Laws	12	15	2	---
	(3) Prison made goods	1	1	---	---
	(4) Lumping or subletting labor	40	18	1	20
	(5) Selling tile unset, etc.	3	2	---	---
	(6) Soliciting 15 days after death (Retail Monument Code)	13	16	4	---
	(7) Block-booking (Motion Picture)	10	---	1	---
	(8) Renting or loaning Mfg. space to another Mfr. (Precious Jewelry Producing)	---	4	---	---
	Not reported	1	1	1	1

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section, Field Division,
National Recovery Administration
Date March 6, 1936

9861 VC

TABLE XX - B

NRA STATE OFFICE COMPLAINTS STATISTICS

Twenty-five Codes with Greatest Number of Trade Practice Complaints, October, 1933 -- May, 1935

Name of Code	Total	Adjusted	No Violation	Dropped	Pending
Trucking Industry	2995	1676	471	559	289
Construction (Total)	2955	1463	757	285	450
Retail Food & Grocery	2601	1599	641	302	59
Retail Trade (Total)	2547	1628	515	322	82
Retail Solid Fuel	1700	962	354	259	125
Wholesale or Distributing Trade	1318	803	280	110	125
Merchant & Custom Tailoring	1178	473	278	210	217
Graphic Arts Ind. (Total)	1106	391	233	330	152
Baking Industry	1096	748	106	127	115
Retail Monument	895	573	203	75	44
Ice Industry	772	499	136	131	6
Retail Rubber Tire & Battery	770	364	369	29	8
Cleaning & Dyeing Trade	666	321	99	246	2
Wheat Flour Milling	536	67	145	2	322
Builder's Supplies Tr.	525	303	97	62	63
Retail Lumber, etc.	494	279	81	113	21
Electrical Manufacturing (Total)	477	228	51	47	151
Shoe Rebuilding	459	79	235	145	--
Motor Vehicle Retailing	444	172	147	97	28
Household Goods & Stor.	434	265	50	118	1
Photographic & Photo Finishing	416	270	115	20	11
Canvas Goods	395	219	118	58	--
Motor Vehicle Storage and Parking Trade	375	154	40	181	--
Retail Tobacco Trade	371	261	58	15	37
Merchandise Warehousing	369	217	117	27	8

Prepared by:
Statistical Section,
Field Division, NRA,
March 20, 1936

9861

to be determined by reference to a uniform method of cost accounting (generally found in manufacturing and other non-distributing codes) and regulations requiring a minimum mark-up on the application of a statistical mode to invoice costs or fixed prices in another industry (generally encountered in distribution codes). Because of the complexity of Section 26 of the Graphic Arts Code and a large volume of cases arising under it, a separate classification was established for this provision. A miscellaneous group of regulations usually based on the requirement that an establishment maintain some sort of costing system was assigned to a separate sub-classification, numbered (4) under the heading "Sales below Cost", although there is some overlap with the first classification under the heading.

(3) In a few cases, violations were reported of several provisions dealing with the same subject and classified under same general heading in the classification system used. For mechanical reasons, it was impossible to list more than one of these violations, and in such cases the violation was assigned to the most important sub-classification, usually the first under the heading.

Notes on classifications.

A further note on the types of provisions included under certain headings may be helpful in the examination of these tables. The following classifications seem to require additional explanation:

Contracts

Sub-class (1), "Non-enforcement of contracts", includes provisions dealing with the following practices:

Departure from credit terms of contract
Settlement of old accounts below full value
Permitting improper deductions when buyer remits
Permitting buyer's cancellation or repudiation
Substituting higher quality or quantity goods
Extending or exceeding contract
Retroactive settlements

False and Inadequate Agreements or Documents

This classification includes all provisions whose object is, by positive requirements or by prohibitions, to insure a full and complete, accurate or itemized record of each sale or transaction, and the form of such records.

Conditional Sales

Sub-class (2) includes provisions governing the following practices:

Sales subject to trial or approval
Repurchase agreements
Shipments without order (Transit Stock, etc.)
Storing goods with customer
Resale Guarantee
Agreements in which buyer is not bound
Exchanging merchandise
Renting or leasing industry products

Allowances

Sub-class (1) includes all provisions prohibiting or regulating in any way the payment for advertising service rendered by customer.

Sub-class (2) includes regulations of allowances for any other definite service or value rendered by a customer, except trade-ins or advertising. (This heading was not used for discrimitatory allowances and rebates, which were included under "Discrimination and Secret Rebates").

Price Guarantees

Sub-class (1) includes only definite prohibitions of price guarantees as such.

Sub-class (2) includes other similar provisions covering options, contracts for deferred delivery with guaranteed price, price agreements indefinite as to time or quantity of goods, and related subjects.

Product Guarantees

This classification includes all provisions prohibiting, or regulating in any way, the giving of guarantees on products, i.e. deviation from standard guarantees set forth in code, or violation of provision prohibiting certain kinds of guarantees (maintenance, etc.).

Transportation Charges

Sub-class (1) applies to all provisions allocating or regulating transportation charges in any way, such as provisions requiring an F.O.B., or delivery basis of selling, prepayment of freight charges, prohibitions of transportation allowances, etc.

Free Goods or Free Deals

This classification has been used to cover all provisions regulating the giving of free goods, including such items as special containers or equipment, free industry products, advertising and display materials, samples, etc.

Free Service

Under sub-class (1) have been included violations of provisions regulating the giving of sales help and demonstrations, plans and drawings, repair and maintenance, warehousing and storage, etc.

Gifts, Subsidies, Financial Assistance

This heading includes all provisions prohibiting or regulating in any way concessions rendered a buyer through financial assistance or favors, i.e. gifts, entertainments, payment of expenses, etc.

Shipment Requirements

All provisions relating to time, method, or size of shipment are

covered by sub-class (1), including split shipment, shipments below a specified minimum, deferred delivery , etc.

Sales of Sub-standard Goods

Under this heading have been included only those provisions imposing regulations on the sale of other than new, unused, first class products, for the protection of the consumer. Provisions for quality requirements in the initial manufacture of the product are not included, nor are any provisions relative to price or cost. The heading covers damaged goods, seconds, used goods, demonstrators, discontinued lines, etc.

Commodity Standards

All provisions establishing definite standards in the manufacture of a product, positive or negative in character, are included here, i.e. standards of quality, quantity, grade, ingredient, etc.

Label Requirements

This heading covers provisions, positive or negative in character, relative to descriptive, accurate labelling requirements, for the information of the consumer, i. e. positive requirements in labelling as to quality, quantity, grade or ingredient, or prohibitions of deceptive labelling.

Market Protection

The sub-classification entitled "Extra Zone Sales" includes anti-dumping provisions.

Advertising Regulations

Under sub-class (4) have been included provisions containing positive restrictions on specific kinds of advertising, not in themselves inaccurate or misleading, such as the use of the word "free", or the advertising of fixed down payment and weekly payments without regard to price, etc.

State Office Series

TABLE XVI

NRA STATE OFFICE COMPLAINT STATISTICS

SIZE OF ESTABLISHMENT, - CHAINS AND COMBINATIONS

Trade Practice Cases, - Total of First and Successive Complaints
Against Respondents, - Total of all Offices, - October, 1933 - May, 1935 a/

Number of employees in units of chains and combinations	Total	Total number of establishments	Adjusted	No Violation	Dropped	Pending
Total	794	387	532	222	30	10
No employees	---	---	---	---	---	---
One employee	2	2	---	1	1	---
2-5 employees	179	95	111	61	3	4
6-10 "	133	53	94	35	4	---
11-25 "	72	41	51	17	2	2
26-50 "	30	21	19	8	2	1
51-100 "	53	27	33	18	2	---
101-250 "	21	11	18	2	1	---
251-500 "	23	12	14	7	2	---
501-1000 "	18	1	16	2	---	---
1001-5000 "	17	2	16	1	---	---
Over 5000 "	---	---	---	---	---	---
Not reported	246	122	160	70	13	3

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section
Field Division, NRA
March 12, 1936

TABLE XVII

N.R.A. STATE OFFICE COMPLAINT STATISTICS

SOURCE

Trade Practice Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Source of Complaints	Total Cases	Adjusted	No Violation	Dropped	Pending
All sources	36,425	19,674	8,094	5,295	3,362
Anonymous	274	150	74	44	6
Employee (status unknown)	142	50	35	57	-
Present employee	62	29	19	6	8
Former employee	71	14	48	5	4
Competitor	7,912	4,172	2,396	1,187	157
Office staff	1,267	710	313	62	182
Code authority	23,756	13,112	4,305	3,408	2,931
State agency	140	80	23	30	7
Gov't purchasing agency	12	8	2	1	1
Labor union	152	67	71	12	2
Trade association	1,282	627	366	256	33
Other sources	1,154	584	421	125	24
Source unknown	201	71	21	102	7

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section,
Field Division, NRA
March 3, 1936

9861

TABLE XVIII

N.R.A. STATE OFFICE COMPLAINT STATISTICS

METHOD OF CLOSING

Trade Practice Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Method of Closing	Total		Adjusted		No Violation	
	Cases	Percentages	Cases	Percentages	Cases	Percentages
Total of all methods	27,768	100	19,674	100	8,094	100
Correspondence	14,079	50.7	9,465	48.2	4,614	57.
Field Adjuster	6,407	23.1	4,309	21.9	2,098	25.9
Office Conference	5,763	20.7	4,627	23.5	1,136	14.
State or Local Adjustment Board	76	.3	50	.2	26	.3
Code Authority	1,164	4.2	1,021	5.2	143	1.8
State Agency (Dept. of Labor, etc.)	91	.3	80	.4	11	.2
Court suit instigated by complainant	4	.0	3	.0	1	.0
Unknown	184	.7	119	.6	65	.8

a/ Offices were officially active from October 19, 1933 to May 27, 1935

Prepared by:
Statistical Section
Field Division, N.R.A.
February 12, 1936

9861

TABLE XIX

N. R. A. STATE OFFICE COMPLAINT STATISTICS

Time Elapsed between Docketing and First Action

Trade Practice Code Cases - Total of all Offices, - October, 1933-May,1935 a/

Days elapsed between docketing and first action	Total	Adjusted	No Violation	Dropped	Pending
Total	36,425	19,674	8,094	5,295	3,362
Action on day of receipt	4,496	2,398	1,292	480	326
1 day	8,751	4,983	1,522	1,774	472
2 days	4,142	2,355	767	624	396
3 days	3,080	1,613	666	390	411
4 days	2,378	1,289	564	311	214
5-7 days	5,411	2,962	1,225	706	518
8-10 days	2,591	1,435	655	278	223
11-14 days	2,066	1,128	510	199	229
15-28 days	1,818	932	458	162	266
Over 28 days	946	465	298	104	79
No action	32	1	1	1	29
Not reported	714	113	136	266	199

a/ The offices were officially active from October 19, 1933 to May 27, 1935.

Prepared by:
Statistical Section
Field Division, N. R. A.
March 4, 1936

9861

TABLE XX

N.R.A. STATE OFFICE COMPLAINT STATISTICS

TIME ELAPSED BETWEEN FIRST ACTION AND CLOSING

Trade Practice Code Cases, Total of all Offices, October, 1933 - May, 1935 a/

Time elapsed between first action and closing	Total	Adjusted	No Violation	Dropped
Total	33,063	19,674	8,094	5,295
Closed on day of receipt	996	537	340	119
1-6 days	7,019	4,631	1,603	785
7-13 days	6,161	4,117	1,405	639
14-20 days	4,323	2,645	1,059	619
21-30 days	4,231	2,461	1,157	613
31-45 days	3,552	1,950	909	693
46-90 days	4,444	2,375	1,103	966
91-182 days	1,743	783	376	584
6-12 months	336	131	80	125
13-18 months	36	3	2	31
Over 18 months	-	-	-	-
Not reported	222	41	60	121

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section,
Field Division, NRA
March 3, 1936

9861

TABLE I - PRA

N.R.A. STATE OFFICE COMPLAINT STATISTICS

Total Number of Cases under the President's Reemployment Agreement, October,1933-May,1935 a/

Offices by Region	Total cases					First complaints against respondents				
	Total	Adjusted	No Violation	Dropped	Pending	Total	Adjusted	No Violation	Dropped	Pending
Total all offices	12,368	4,370	6,430	806	762	11,004	3,753	5,776	731	744
Total, Region 1	122	37	80	---	5	106	31	70	---	5
Maine	28	6	22	---	---	23	5	18	---	---
New Hampshire	------	-----	-----	---	---	------	-----	-----	---	---
Vermont	------	-----	-----	---	---	------	-----	-----	---	---
Massachusetts	4	-----	4	---	---	3	-----	3	---	---
Rhode Island	37	10	26	---	1	32	8	23	---	1
Connecticut	53	21	23	---	4	48	18	26	---	4
Total, Region 2	6,221	2,330	3,583	235	73	5,356	1,914	3,171	203	68
Albany, N.Y.	49	12	29	8	---	46	11	27	8	---
Buffalo, N.Y.	81	22	56	2	1	81	22	56	2	1
New York, N.Y.	6,091	2,296	3,498	225	72	5,229	1,881	3,088	193	67
Total, Region 3	717	85	521	78	33	704	78	517	76	33
New Jersey	17	7	10	---	---	11	2	9	---	---
Philadelphia,Pa.	460	41	377	19	23	457	41	374	19	23
Pittsburgh,Pa.	147	18	87	39	3	147	18	87	39	3
Delaware	38	2	16	20	---	35	1	16	18	---
Maryland	3	2	1	---	---	2	1	1	---	---
Dist.of Col.	6	3	3	---	---	6	3	3	---	---
Virginia	-----	-----	-----	---	---	-----	-----	-----	---	---
North Carolina	46	12	27	---	7	46	12	27	---	7
Total, Region 4	245	72	85	70	18	228	64	83	63	18
South Carolina	22	7	5	10	---	13	-----	5	8	---
Georgia	81	30	35	9	7	79	29	34	9	7
Florida	71	21	11	28	11	69	21	11	26	11
Tennessee	19	3	1	15	---	18	3	1	14	---
Alabama	28	5	15	8	---	25	5	14	6	---
Mississippi	24	6	18	---	---	24	6	18	---	---
Louisiana	-----	-----	-----	---	---	-----	-----	-----	---	---
Total, Region 5	404	168	160	45	31	323	119	144	29	31
Michigan	274	114	126	17	17	273	113	126	17	17
Ohio	91	51	19	16	5	13	5	3	---	5
West Virginia	1	1	-----	---	---	1	1	-----	---	---
Kentucky	38	2	15	12	9	36	-----	15	12	9
Total, Region 6	1,265	491	505	220	49	1,261	491	502	219	49
Wisconsin	132	24	60	7	41	131	24	59	7	41
Indiana	1,084	450	423	203	8	1,083	450	422	203	8
Illinois	2	-----	1	1	---	1	-----	1	---	---
Missouri	47	17	21	9	---	46	17	20	9	---

PRA Series

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TABLE I - PRA

N.R.A. STATE OFFICE COMPLAINT STATISTICS

Total Number of Cases under the President's Reemployment Agreement, October, 1933-May, 1935 a/

Offices by Region	Total cases					First complaints against respondents				
	Total	Adjusted	No Violation	Dropped	Pending	Total	Adjusted	No Violation	Dropped	Pending
Total, Region 7	1,182	374	307	23	478	1,107	335	279	20	473
Minnesota	153	80	63	5	5	148	78	62	3	5
Iowa	104	39	55	5	5	101	37	55	4	5
North Dakota	19	1	8	10	---	19	1	8	10	---
South Dakota	50	18	32	---	---	31	5	26	---	---
Nebraska	334	176	137	---	21	286	154	116	---	16
Kansas	491	34	10	1	446	491	34	10	1	446
Wyoming	16	16	---	---	---	16	16	---	---	---
Colorado	15	10	2	2	1	15	10	2	2	1
Total, Region 8	538	206	215	68	49	509	194	207	64	44
Arkansas	5	1	3	---	1	5	1	3	---	1
Oklahoma	161	37	61	24	39	137	29	54	20	34
Dallas, Texas	135	55	56	24	---	133	53	56	24	---
Houston, Texas	237	113	95	20	9	234	111	94	20	9
New Mexico	-----	---	---	---	---	-----	---	---	---	---
Total, Region 9	1,674	607	974	67	26	1,410	527	803	57	23
Montana	30	16	14	---	---	27	14	13	---	---
Idaho	20	6	14	---	---	20	6	14	---	---
Utah	23	8	11	1	3	22	7	11	1	3
Nevada	1	1	---	---	---	1	1	---	---	---
Arizona	4	2	1	1	---	4	2	1	1	---
Washington	975	320	608	44	3	734	247	450	34	3
Oregon	109	37	61	5	6	103	36	59	5	3
Los Angeles, Calif.	313	157	140	2	14	311	157	138	2	14
San Francisco, Calif.	199	60	125	14	---	188	57	117	14	---

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Included are 1,686 adjusted, 2279 no violation, 192 dropped and 6 pending cases accepted prior to October 19, 1933.

Prepared by:
Statistical Section,
Field Division, N.R.A.
February 20, 1936.

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TABLE XIII

NRA STATE OFFICE COMPLAINT STATISTICS

VIOLATIONS OF THE PRESIDENT'S REEMPLOYMENT AGREEMENT

Total of all Offices, October, 1933 - May, 1935 a/

	Total	Adjusted	Dropped	Pending
Total Number of Cases	5,933	4,365	806	762
Total Number of Violations	9,921	7,564	1,353	1,004
Total Hour Violations	4,765	3,795	684	286
Total Wage Violations	5,012	3,644	654	714
Total General Violations	144	125	15	4

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Included are 1,683 adjusted, 192 dropped and 6 pending cases accepted prior to October 19, 1933.

Prepared by:

Statistical Section
Field Division, NRA
March 19,1936

9861

State Office Series

TABLE X

NRA STATE OFFICE COMPLAINT STATISTICS

AMOUNT OF RESTITUTION AND NUMBER OF EMPLOYEES PAID

Cases under President's Reemployment Agreement, Total of all Offices, October, 1933 -- May, 1935

Number of Cases	4370
Amount (Dollars)	204,184.01
Employees	7497

Prepared by:
Statistical Section,
Field Division, NRA
March 13, 1936

9861

TABLE XXIV

SUMMARY, NRA COMPLIANCE DIVISION
AND REGIONAL OFFICE CASES
November 11, 1933 - May 27, 1935 a/

	Complaints Docketed	Complaints closed by administrative action	Complaints referred to Litigation	NRA Insignia Removed	On Hand May 25,1935
TOTAL	7,136	3,634	1,435	1,795	2,067
Labor Complaints	3,673	1,810	657	916	1,206
Trade Complaints	2,950	1,574	603	692	773
Labor & Trade Practice Complaints against same respondent	513	250	175	187	88

a/ This is a report of cases referred by NRA State Offices or by the Code Authorities to the Compliance Division in Washington, or after January 1, 1935 to the Regional Offices for special administrative action. These totals were compiled from the card files of the Control Section of the Compliance Division in Washington, and from daily reports submitted by the 9 Regional Offices.

Prepared by:

Statistical Section
Field Division, NRA
July 23, 1935

9861

TABLE XXV

NRA STATE OFFICE COMPLAINT STATISTICS

Uninvestigated Complaints Pending May 27, 1935 a/

	Labor	Trade Practice
Total all offices	4,515	552
Total, Region 1	332	51
Maine	35	3
New Hampshire	17	5
Vermont	1	2
Massachusetts	68	32
Rhode Island	65	---
Connecticut	146	9
Total, Region 2	1,435	34
Albany, N.Y.	132	5
Buffalo, N.Y.	45	10
New York, N.Y.	1,258	19
Total, Region 3	365	231
New Jersey	129	15
Philadelphia, Pa.	---	69
Pittsburgh, Pa.	110	---
Delaware	2	1
Maryland	110	130
District of Columbia	5	---
Virginia	9	16
North Carolina	---	---
Total, Region 4	339	16
South Carolina	19	2
Georgia	---	---
Florida	46	3
Tennessee	9	---
Alabama	39	6
Mississippi	100	---
Louisiana	126	5

TABLE XXV (Cont'd)

NRA STATE OFFICE COMPLAINT STATISTICS

Uninvestigated Complaints Pending May 27, 1935 a/

	Labor	Trade Practice
Total, Region 5	623	44
Michigan	260	9
Ohio	353	34
West Virginia	10	1
Kentucky	---	---
Total, Region 6	279	66
Wisconsin	24	2
Indiana	15	5
Illinois	35	42
Missouri	205	17
Total, Region 7	110	6
Minnesota	---	3
Iowa	---	---
North Dakota	16	---
South Dakota	16	---
Nebraska	---	---
Kansas	---	1
Wyoming	1	---
Colorado	77	2
Total, Region 8	360	18
Arkansas	---	7
Oklahoma	46	3
Dallas, Texas	138	6
Houston, Texas	163	---
New Mexico	13	2

9861

TABLE XXV (Cont'd)

NRA STATE OFFICE COMPLAINT STATISTICS

Uninvestigated Complaints Pending May 27, 1935 a/

	Labor	Trade Practice
Total, Region 9	672	86
Montana	1	1
Idaho	---	5
Utah	15	—
Nevada	21	8
Arizona	2	—
Washington	122	31
Oregon	134	5
Los Angeles, Calif.	62	28
San Francisco, Calif.	315	8

a/ Instructions for the analysis of NRA State office cases, July 10, 1935, provided that cases which had not been investigated sufficiently to ascertain whether a violation existed, or to determine the amount due, were to be excluded from the analysis. The number of univestigated cases pending on May 27, 1935, but not analyzed, was reported by 12 offices. In other cases, the figure was computed by subtracting the number of analyzed cases reported as pending, from the total number shown on hand May 27, 1935, in the report of that date.

Prepared by:
Statistical Section,
Field Division, N.R.A.
March 4, 1936.

9861

APPENDIX I

APPENDIX I

NRA STATE OFFICE COMPLAINT STATISTICS

Survey of Cases Investigated

October 19, 1933-May 27, 1935

LIST OF TABLES

Tables showing violations of codes are grouped into three series, "The State Office Series", showing information broken down by office handling the complaint, "The Code Series", with items by code, and the "Special Series" showing interrelated factors based on combined experience of a selected group of offices. Within these groups are separate sets of figures for labor and for trade practice complaints. There is an additional group of tables showing violations of the President's Reemployment Agreement.

Tables showing the same type of information for labor and trade practice cases have been given the same number. Indication as to whether tables cover labor or trade, and adjusted, no violation, dropped or pending cases is furnished by symbols such as L or TP, and the numbers of the reports from which the information by method of disposition was drawn.

Tables were received from the tabulating section of the Census in two forms, first in pencil entries on rotoprinted work sheets which have word captions and also column and symbol numbers by which the information was recorded on punch cards, and second in the form of machine sheets, showing totals printed by the adding tabulator. Information shown on machine sheets needs to be decoded in order to read easily.

Finished tables have been prepared from the work sheets either by India ink transcriptions to rotoprinted forms, or by typewritten copies of selected items on sheets of correct size for duplication andbinding. In addition multigraphed blanks showing labor and trade practice provisions violated, have been prepared for each code in which complaints were docket. The index shows both the tables covered by the original work sheets and also the transcriptions made from them, and whether these have been duplicated.

SUMMARY OF TABLES

STATE OFFICE SERIES(*)

	Labor	Trade Practice
Table 1, Number of Cases, and Number of Respondents	All methods of disposition	All methods of disposition
Table 2, Size of Respondents' Establishment (Number of Employees in Individually Operated Establishments, and in Units of Chains and Combinations)	All methods of disposition	All methods of disposition
Table 3, Source of Complaint	"	"
Table 4, Method of Payment of Wage Restitution, by Number of Cases (See also Tables 10, 11, 12)	Adjusted cases	- - -
Table 5, Method of Closing Cases	Adjusted, no violation and dropped cases	Adjusted, no violation and dropped cases
Table 6, Month Received	All methods of disposition	All methods of disposition
Table 7, Time Elapsed between Docketing and First Action	All methods of disposition	All methods of disposition
Table 8, Time Elapsed between First Action and Closing	Adjusted, no violation and dropped cases	- - -
Table 9, Blue Eagles removed by State Directors 9 Service Trades	Dropped cases	- - -

(*) Table numbers correspond to those of the original study, rather than to numbers of text tables.

STATE OFFICE SERIES (continued)

		Labor	Trade Practice
Table 10	Amount and Number of Employees Receiving Wage Restitution	Adjusted cases	- - -
	Estimated Amount and Employees Owed	Dropped and pending cases	- - -
Table 11	Count of Cases not Reporting Wage Restitution	Adjusted cases	- - -
Table 12	Method of Payment of Wage Restitution by Amount	Adjusted cases	- - -
Table 13	Nature of Violations, by State (See also Table 20, Code Series)	Adjusted dropped, pending cases	- - -
Table 14	Number of cases by code	All methods of disposition	See Table 20
Table 15	Code by State (omitted)	- - -	- - -
Table 16	Individually operated establishments by size (Selected list of 84 codes and 31 supplements)(*)	Adjusted dropped and pending cases	Adjusted, dropped and pending (Selected list of 32 codes and 6 supplements)(*)
Table 17	Number of Units of local, sectional, national chains (Selected list of 84 codes and 31 supplements)(*)	Adjusted, dropped, pending cases	Adjusted, dropped, pending (Selected list of 32 codes and 6 supplements)(*)

(*) See below for list of codes

CODE SERIES OF TABLES (continued)

	Labor	Trade Practice
Table 18, Number of Branch plants or Branch sales offices, (Selected list of 84 codes and 31 supplements)(*)	Adjusted dropped, pending cases	Adjusted, dropped, pending (Selected list of 32 codes and 6 supplements)(*)
Table 19, Source of Complaints (omitted)	- - -	- - -
Table 20, Type of Violation	All methods of disposition Separate 3 page analysis for each code and supplement (See table 13 for national totals)	All methods of disposition Separate 6 page analysis for each code and supplement, also national total summary
Table 20B, Types of Violations, by Size and State	- - -	Adjusted, dropped, pending, (Selected list of 105 basic codes and 218 supplementary codes)
Table 21, Associated Violations (omitted)	- - -	- - -
Table 22, Employee Classifications	Adjusted cases (National totals only)	- - -
Table 23, Extent of violation Percentage of employees affected by violation; excluding units of chains and combinations (84 codes and 31 supplements)		- - -

(*) See below for list of codes

CODE SERIES OF TABLES (continued)

		Labor	Trade Practice
Table 24,	Period of Violation based on individually operated establishments (Selected list of 84 codes and 31 supplements)	Adjusted, dropped, pending cases	Adjusted, dropped, pending (Selected list 32 basic codes and 6 supplements)
Table 25,	Amount and number of Employees Receiving Wage Restitution	Adjusted cases	- - -
Table 26,	Cases not reporting wage restitution (omitted)	- - -	- - -
Table 27,	Amount by Method of Payment (omitted)	- - -	- - -
Table 28,	Time received	- - -	All methods of disposition (Selected list of 32 codes and 6 supplements)

SPECIAL SERIES OF TABLES

Table 22,	Employee Classifications (transferred from code series)	Adjusted dropped, pending (National totals)	- - -
Table 29,	Size of Individually operated establishments by source of complaint	Adjusted cases (10 selected State Offices)	- - -
Table 30,	Source of Complaints by Month Received	Adjusted no violation cases (all offices)	- - -
Table 31,	Size of individually operated establishments by extent of violation	Adjusted (10 selected State Offices	

SPECIAL SERIES OF TABLES (continued)

		Labor	Trade Practice
Table 32,	Size of Individually Operated establishments by amount and number of employees receiving wage restitution	Adjusted cases (10 selected State Offices)	- - -
Table 33L1,	Size of Units of chains or Combinations, by Amount and Number of Employees Receiving Wage Restitution	Adjusted cases (10 selected State Offices)	- - -
Table 34L1,	Size of Individually Operated Establishments by Method of Closing	Adjusted cases (10 selected State Offices)	- - -
Table 35L1,	Size of Individually Operated Establishments by Time Elapsed in Closing	Adjusted cases (10 selected State Offices	- - -
Table 36,	Time Elapsed in Closing by Month Received	All methods of disposition (all offices	All methods of disposition (all offices)

CASES UNDER PRESIDENT'S REEMPLOYMENT AGREEMENT

Table 1,(*)	Number of Cases and Number of Respondents	All methods of disposition
Table 6,	Month Received	All methods of disposition (National totals only)
Table 10,	Amount and Number of Employees Receiving Wage restitution	Adjusted cases only

(*) Table numbers correspond to tables showing similar items in the State Offi

CASES UNDER PRESIDENT'S REEMPLOYMENT AGREEMENT (continued)

Table 13, Type of Violation	Labor: Adjusted, dropped and pending cases (National totals only)	Trade Practice

List of codes to be included in:

Table 24, Period of Violation
Table 16, Size, Unit of Establishments
Table 17, Size, Chains and Combinations
Table 18, Size, Branch Plants and Branch State Offices

TRADE PRACTICE CODE SERIES

Alphabetical Symbol Number	CODE NAME
036	Automotive Parts and Equipment (Basic Code)
050	Baking
058	Beauty and Barber Shop Equipment
059	Bedding
085	Builders' Supplies
102	Canvas Goods
130	Cleaning & Dyeing
149	Construction (Basic)
154	Electrical Contracting
165	Plumbing
222	Electrical Manufacturing (Basic)
231	Fabricated Metal Products (Basic)
346	Graphic Arts (Basic)
375	Commercial Relief Printing
408	Household Goods, Storage and Moving
412	Ice
470	Lumber and Timber
563	Motor Vehicle Retail
564	Motor Vehicle Storage and Parking
622	Photographic & Photo Finishing
690	Retail Food & Grocery
691	Retail Jewelry
692	Retail Lumber
694	Retail Monument
695	Retail Rubber Tire & Battery
696	Retail Solid Fuel
697	Retail Tobacco
698	Retail Trade

TRADE PRACTICE CODE SERIES (continued)

Alphabetical Symbol Number	CODE NAME
609	Booksellers Trade
702	Retail Drug Trade
737	Set-up Paper Box Mfg. Ind.
744	Shoe Rebuilding
804	Trucking
839	Wheat Flour
845	Wholesale Confectionery
844	Wholesale Food & Grocery
848	Wholesaling
855	Electrical Wholesale

32 codes
6 supplements

CODES INCLUDED IN TABLES 16, 17, 18, 23 and 24,

LABOR CODE SERIES

Alphabetical Code Symbol	CODE NAME
010	Alcholic Beverage Wholesale
033	Automobile Mfg.
036	Automotive Parts & Equipment
050	Baking Industry
055	Bankers Industry
056	Barber Shop Trade
059	Bedding Industry
064	Bituminous Coal
068	Blouse and Shirt
074	Boot and Shoe
075	Bottled Soft Drink
098	Candy Manufacturing
100	Canning Industry
114	Chemical Manufacturing
125	Cigar Manufacturing
130	Cleaning and Dyeing
134	Coat and Suit
149	Construction Industry
150	*Building Granite
151	*Cement Gun Contractors
152	*Construction News Service
153	*Cork Insulation Contractors
154	*Electrical Contracting
155	*Elevator Mfg.
156	*General Contractors

CODES INCLUDED IN TABLES 16, 17, 18, 23 and 24, (continued)

LABOR CODE SERIES

Alphabetical Code Symbol	CODE NAME
157	*Heating, Piping and Air Cond.
158	*Highway Contractors
159	*Insulation Contractors
160	*Kalamein Industry
161	*Marble Contracting
162	*Mason Contractors
163	*Painting & Paperhanging
164	*Plastering & Lathing
165	*Plumbing Contracting
166	*Resilient Flooring
167	*Roofing & Sheet Metal
168	*Stone Cutting Contractors
169	*Terrazo & Mosaic Contr.
170	*Tile Contractors
171	*Wood Floor Contractors
185	Cotton Garment Industry
186	Cotton Textile (Basic)
192	Crushed Stone, Sand & Gravel
210	Dress Manufacturing
222	Electrical Manufacturing Ind.
223	*Wiring Device
231	Fabricated Metals (Basic)
298	Fertilizer Industry
322	Folding Paper Box Mfg.
332	Fur Manufacturing
335	Furniture Manufacturing
346	Graphic Arts (Total)
347	*Intalgio Printing Process Group)
352	*Lithographic Printing Process
375	*Relief Printing Process Group'
382	*Trade Lithographic Plate Baking
383	*Trade Mounting & Finishing
387	Gray Iron Foundry
407	Hotel Industry
425	Infants & Children's Wear
430	Iron & Steel
435	Knitted Outerwear
443	Laundry Trade
446	Leather Industry
460	Luggage & Fancy Leather Goods
470	Lumber & Timber
475	Macaroni Manufacturing
481	Machinery & Allied Products (Basic)
542	Men's Clothing

CODES INCLUDED IN TABLES 16, 17, 18, 23 and 24, (continued)

LABOR CODE SERIES (continued)

Alphabetical Code Symbol	CODE NAME
543	Men's Neckwear
555	Millinery
560	Motor Bus
562	Motor Vehicle Maintenance
563	Motor Vehicle Retail
564	Motor Vehicle Storage & Parking
605	Paper & Pulp
617	Petroleum Industry
622	Photographic & Photofinishing
678	Rayon Silk Dye and Print
687	Resturant
690	Retail Food and Grocery
691	Retail Jewelry
692	Retail Lumber
693	Retail Meat
695	Retail Rubber Tire & Battery
696	Retail Solid Fuel
697	Retail Tobacco
698	Retail Trade (Basic)
699	*Booksellers
701	*Retail Custom Millinery
702	*Retail Drug
732	Scrap Iron (Basic)
737	Set-Up Paper Box Mfg. Industry
739	Shipbuilding & Repairing
744	Shoe Rebuilding
749	Silk Textile
756	Soap and Glycerine
763	Special Tool, Die & Mach. Shop. Ind.
797	Textile Processing
800	Toy & Playthings
802	Transit
804	Trucking
810	Undergarment & Negligee
811	Underwear & Allied Products
816	Used Textile Bag
839	Wheat Flour Milling
841	Wholesale Auto Trade
844	Wholesale Food & Grocery
845	Wholesale Fresh Fruit & Vegetable
848	Wholesale Trade
873	Wholesale Tobacco Trade

CODES INCLUDED IN TABLES 16, 17, 18, 23 and 24

LABOR CODE SERIES (continued)

Alphabetical Code Symbol	CODE NAME
882	Wood Heel Industry
889	Wood Textile
892	Wrecking & Salvage
712	Rubber Mfg. Industry

* Supplemental codes with separate labor provisions are designated by an asterisk.

CASES REPORTED HANDLED BY

STATE AND LOCAL ADJUSTMENT BOARDS

Alabama	46	New Jersey	110
Arizona	--	New Mexico	0
Arkansas	54	New York	
California		Albany	---
Los Angeles	67	Buffalo	---
San Francisco	31	New York City	20
Colorado	9	Nevada	6
Connecticut	72	North Carolina	52
Delaware	29	North Dakota	3
Dist. of Columbia	14	Ohio	164
Florida	52	Oklahoma	83
Georgia	146	Oregon	23
Idaho	1	Pennsylvania	
Illinois	70	Philadelphia	451
Indiana	275*	Pittsburgh	87
Iowa	18	Rhode Island	57
Kansas	58	South Carolina	91
Kentucky	28	South Dakota	6
Louisiana	151	Tennessee	15
Maine	43	Texas	
Maryland	4	Dallas	47
Massachusetts	51	Houston	1
Michigan	60	Utah	6
Minnesota	9	Vermont	1
Mississippi	22	Virginia	21
Missouri	97	Washington	2
Montana	23	West Virginia	44
Nebraska	93	Wisconsin	11
New Hampshire	3	Wyoming	6

Total.....2,813

* (Estimate based on 109 cases by 11 local Boards
72 cases by State Board
15 local Boards not reported)

N.R.A. STATE OFFICE COMPLAINT STATISTICS

DISPOSITION OF CASES BY STATE AND LOCAL ADJUSTMENT BOARDS (Representative Sample)

	Total Meetings	Total Cases Handled	Total Violations Found	Adjusted	Compromise Approved	Compromise Disapproved	Dropped	Blue Eagle Removal by State Director (Service)	To Compliance Division, etc.	Violation Found But No Action (Pending)	Total Rejected	Insufficient Evidence	No Violations	No Jurisdiction	No Action and Compliance not decided	Overruled by State Director
Arkansas	12	34	33	13	7	0	3	4	6	0	1	0	1	0	0	0
Calif., Los Angeles.	31	67	52	26	11	0	2	6	3	4	15	12	1	2	0	0
Calif., San Francisco.	30	31	25	7	1	0	3	1	13	0	6	0	6	0	0	1
Delaware	26	29	18	9	1	0	1	1	1	5	8	4	2	2	3	0
Florida	35	52	32	14	8	0	1	1	7	1	18	14	1	3	2	0
Georgia	33	81	61	23	13	0	11	3	11	0	20	5	15	0	0	3
Iowa	10	18	11	5	2	0	2	0	0	2	7	3	3	1	0	1
Louisiana	47	151	104	19	27	0	7	3	45	3	20	10	9	1	27	6
Michigan	15	60	42	12	22	0	1	11	4	2	16	2	14	0	2	0
Missouri	32	85	64	13	9	1	18	5	16	2	14	8	4	2	7	0
*Ohio	56	125	88	25	39	0	2	11	3	8	25	16	6	3	12	4
Oklahoma	40	83	65	37	15	0	1	1	6	5	8	2	6	0	10	1
Oregon	32	23	16	10	0	0	2	0	0	4	7	4	2	1	0	0
Pa., Philadelphia.	72	451	435	372	41	0	0	0	6	16	16	16	0	0	0	3
Dallas, Texas	24	47	32	10	1	0	0	5	6	0	15	1	13	1	0	1
Virginia	8	21	17	10	7	0	0	0	0	0	4	2	2	0	0	0
West Virginia	36	44	20	18	0	0	0	1	1	0	21	12	7	2	3	0
Wisconsin	11	11	11	1	4	0	2	0	4	0	0	0	0	0	0	0
Total	550	1,413	1,126	626	208	1	56	43	132	52	221	111	92	18	66	20

* 39 cases eliminated because details of disposition unknown.

STATISTICAL DATA ON

DOCKETED CASES REFERRED TO REGIONAL OFFICES

REGION	No. of Docketed Cases Referred by Compliance Div.	Dates Referred	Referred Cases Closed or Adjusted by Regional Office	Referred Cases Pending May 11, 1935.
I	58	12/20/34 to 3/2/35	53	5
II	60	1/25/35 to 3/8/35	54	6
III	669	2/19/35 to	566	103
IV	117	12/19/34 to 2/13/35	81	36
V	96	12/21/34 to 3/12/35	76	20
VI	165	12/19/34 to 3/1/35	124	41
VII	84	12/20/34 to 3/16/35	70	14
VIII	56	12/21/34 to 3/9/35	51	5
IX	98	12/20/34 to 3/15/35	80	18
TOTAL	1403		1155	248

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STATISTICAL REPORT ON COMPLAINTS

RECEIVED IN ANALYSIS BRANCH, COMPLIANCE DIVISION FOR PERIOD MAY 7, 1934 TO DECEMBER 29, 1934.

WEEK ENDING	COMPLAINTS RECEIVED	INVESTIGATED CASES ANALYZED	COMPLAINTS ADJUSTED	ON HAND REFERRED OR IN SUSPENSE	NUMBER OF ANALYSTS
5-12-34	216	40	12	157	12
5-19-34	178	44	7	106	12
5-26-34	169	38	20	146	12
6-2-34	166	44	11	96	11
6-9-34	160	41	9	149	11
6-16-34	119	24	16	103	11
6-23-34	174	18	24	152	12
6-30-34	165	23	23	116	10
7-7-34	175	22	19	143	9
7-14-34	373	39	7	346	10
7-21-34	217	26	11	203	10
7-28-34	200	25	11	171	9
8-4-34	220	39	18	259	9
8-11-34	202	42	14	155	9
8-18-34	205	27	18	152	9
8-25-34	224	41	15	129	9
9-1-34	201	30	22	189	9
9-8-34	266	50	17	197	8
9-15-34	315	61	24	203	8
9-22-34	217	40	9	191	8
9-29-34	263	56	16	225	8
10-6-34	309	33	24	229	8
10-13-34	245	31	33	299	8
10-20-34	309	33	25	216	8
10-27-34	265	46	33	214	8
11-3-34	287	61	16	223	10
11-10-34	316	52	15	219	10
11-17-34	362	37	29	259	11
11-24-34	386	59	40	407	10
12-1-34	393	40	21	211	12
12-8-34	345	73	34	329	12
12-15-34	411	84	21	262	12
12-22-34	358	48	13	317	11
12-29-34	272	13	12	288	11
TOTAL	8683	1380	639	6855	327
AVERAGE (34 wks)	255.4	40.6	18.8	201.6	9.6

9861 #

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION

THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

> The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title. I hereby appoint Leon C. Marshall, Director of the Division of Review.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies, legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof; the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority, the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histories, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes

set forth the origination of the codes, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Material Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, the materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Ecnomic Survey of
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
  Part A - Competitive Position of the United States in International Trade 1927-29 through 1934.
  Part B - Section 3 (e) of NIRA and its administration.
  Part C - Imports and Importing under NRA Codes.
  Part D - Exports and Exporting under NRA Codes.
Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State, 1926 to 1934
National Labor Income by Months, 1929-35
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
Women's Neckwear and Scarf Industry, Financial and Labor Data on

Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: Trade Practice Provisions in Selected NRA Codes
Distributive Relations in the Asbestos Industry
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control in the Ice Industry
Production Control, Case Studies in
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for comparision with Trade Practice Provisions of NRA Codes.

Labor Studies

Cap and Cloth Hat Industry, Commission Report on Wage Differentials in
Earnings in Selected Manufacturing Industries, by States, 1933-35
Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-35
Fur Manufacturing, Commission Report on Wages and Hours in
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
  Part A. Introduction
  Part B. Control of Hours and Reemployment
  Part C. Control of Wages
  Part D. Control of Other Conditions of Employment
  Part E. Section 7(a) of the Recovery Act
Materials in the Field of Industrial Relations
PRA Census of Employment, June, October, 1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Conditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approved Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their part in the Administration of the NIRA
  Part A. Introduction
  Part B. Nature, Composition and Organization of Code Authorities

Part C. Activities of the Code Authorities
Part D. Code Authority Finances
Part E. Summary and Evaluation
Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
Part A. Executive and Administrative Orders
Part B. Labor Provisions in the Codes
Part C. Trade Practice Provisions in the Codes
Part D. Administrative Provisions in the Codes
Part E. Agreements under Sections 4(a) and 7(b)
Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review of its Organization and Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government Funds
Relationship of NRA with States and Municipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce
Commerce Clause, Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending Power
Government Contract Provisions as a Means of Establishing Proper Economic Standards, Legal Memorandum on Possibility of
Industrial Relations in Australia, Regulation of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Commerce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power -- Can it be Used as a Means of Federal Industrial Regulation?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?

9768--4.

THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of those studies follows:

Automobile Manufacturing Industry
Automotive Parts and Equipment Industry
Baking Industry
Boot and Shoe Manufacturing Industry
Bottled Soft Drink Industry
Builders' Supplies Industry
Canning Industry
Chemical Manufacturing Industry
Cigar Manufacturing Industry
Coat and Suit Industry
Construction Industry
Cotton Garment Industry
Dress Manufacturing Industry
Electrical Contracting Industry
Electrical Manufacturing Industry
Fabricated Metal Products Mfg. and Metal Finishing and Metal Coating Industry
Fishery Industry
Furniture Manufacturing Industry
General Contractors Industry
Graphic Arts Industry
Gray Iron Foundry Industry
Hosiery Industry
Infant's and Children's Wear Industry
Iron and Steel Industry
Leather Industry
Lumber and Timber Products Industry
Mason Contractors Industry
Men's Clothing Industry
Motion Picture Industry
Motor Vehicle Retailing Trade
Needlework Industry of Puerto Rico
Painting and Paperhanging Industry
Photo Engraving Industry
Plumbing Contracting Industry
Retail Lumber Industry
Retail Trade Industry
Retail Tire and Battery Trade Industry
Rubber Manufacturing Industry
Rubber Tire Manufacturing Industry
Shipbuilding Industry
Silk Textile Industry
Structural Clay Products Industry
Throwing Industry
Trucking Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Wholesale Fresh Fruit and Vegetable Industry
Wool Textile Industry

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:
9768--5.

Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry

THE COVERAGE

The original, and approved, plan of the Division of Review contemplated resources sufficient (a) to prepare some 1200 histories of codes and NRA units or agencies, (b) to consolidate and index the NRA files containing some 40,000,000 pieces, (c) to engage in extensive field work, (d) to secure much aid from established statistical agencies of government, (e) to assemble a considerable number of experts in various fields, (f) to conduct approximately 25% more studies than are listed above, and (g) to prepare a comprehensive summary report.

Because of reductions made in personnel and in use of outside experts, limitation of access to field work and research agencies, and lack of jurisdiction over files, the projected plan was necessarily curtailed. The most serious curtailments were the omission of the comprehensive summary report; the dropping of certain studies and the reduction in the coverage of other studies; and the abandonment of the consolidation and indexing of the files. Fortunately, there is reason to hope that the files may yet be cared for under other auspices.

Notwithstanding these limitations, if the files are ultimately consolidated and indexed the exploration of the NRA materials will have been sufficient to make them accessible and highly useful. They constitute the largest and richest single body of information concerning the problems and operations of industry ever assembled in any nation.

L. C. Marshall,
Director, Division of Review.

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